

EXHIBIT 5

Kevin Frye

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF MISSISSIPPI

Oxford Division

* * * * *

JOHN RASH,

Plaintiff,

3:20-cv-224-NBB-RP

v.

LAFAYETTE COUNTY, MISSISSIPPI,

Defendant.

* * * * *

VIDEOTAPED VIDEO CONFERENCE DEPOSITION OF

KEVIN FRYE

Location of witness:

1100 Tyler Avenue, #101

Oxford, MS 38655

Tuesday, December 8, 2020

Reported by: DEBRA AMOS ISBELL, CCR,RDR,CRR

Job No: 187458

<div>Page 2</div> <div>Kevin Frye</div> <div>December 8, 2020</div> <div>9:15 a.m.</div> <div>Videotaped Video Conference Deposition of KEVIN FRYE, with the witness located at his office, 1100 Tyler Avenue, #101, Oxford, Mississippi, before Debra Amos Isbell, a Registered Professional Reporter, Registered Diplomate Reporter, Certified Realtime Reporter, and Mississippi Certified Court Reporter.</div>	<div>Page 3</div> <div>Kevin Frye</div> <div>A P P E A R A N C E S</div> <div>(ALL APPEARANCES BY VIDEO CONFERENCE)</div> <div>C. JACKSON WILLIAMS, ESQUIRE Attorney for the Plaintiff P.O. BOX 69 Taylor, MS 38673 BY: C. JACKSON WILLIAMS, ESQUIRE</div> <div>ACLU OF MISSISSIPPI Attorneys for the Plaintiff P.O. Box 2242 Jackson, MS 39225 BY: JOSHUA TOM, ESQUIRE</div>
<div>Page 4</div> <div>Kevin Frye</div> <div>APPEARANCES (Continued)</div> <div>CLAYTON O'DONNELL Attorneys for the Defendant 1403 Van Buren Avenue Oxford, MS 38655 BY: DAVID O'DONNELL, ESQUIRE</div> <div>Court Reporter: DEBRA AMOS ISBELL, CCR,RDR,CRR</div> <div>Videographer: WILLIAM THOMAS</div>	<div>Page 5</div> <div>Kevin Frye</div> <div>THE VIDEOGRAPHER: Good morning. My name is William Thomas. I am a certified legal videographer in association with TSG Reporting. Due to the severity of the COVID-19 outbreak and following the practice of social distancing, I will not be in the same room with the witness. Instead I will record this videotaped deposition remotely. The reporter, Debra Isbell, also will not be in the same room and will swear in the witness remotely. Do all parties stipulate to the validity of this video recording and remote swearing in and that it will be admissible in the courtroom as if it had been taken following Rule 30 of the Federal Rules of Civil Procedures and the state's rules where this case is pending? MR. WILLIAMS: So stipulated. MR. O'DONNELL: Yes. No objections. Stipulated. THE VIDEOGRAPHER: All right. Thank you very much. This is the start of media labeled number 1 of the video-recorded deposition of Kevin Frye taken in the matter of John Rash, plaintiff, versus</div>

<p style="text-align: right;">Page 6</p> <p>1 Kevin Frye</p> <p>2 Lafayette County, Mississippi, defendant. This is in</p> <p>3 the United States District Court, Northern District of</p> <p>4 Mississippi, Oxford Division, case number</p> <p>5 3:20-CV-224-NBB-RP. The time is 9:15 central time.</p> <p>6 The date is December 8th, 2020. William Thomas is the</p> <p>7 videographer. Debra Isbell is the court reporter.</p> <p>8 Counsel, would you now identify yourselves</p> <p>9 for this proceeding.</p> <p>10 MR. WILLIAMS: C. Jackson Williams, counsel</p> <p>11 for the plaintiff. Ms. Isbell, my bar number is 7226</p> <p>12 if you need to look up my contact information later</p> <p>13 for the record.</p> <p>14 MR. TOM: Joshua Tom, ACLU of Mississippi,</p> <p>15 on behalf of Plaintiff John Rash.</p> <p>16 MR. O'DONNELL: David O'Donnell on behalf of</p> <p>17 Lafayette County, Mississippi.</p> <p>18 THE VIDEOGRAPHER: All right. Thank you.</p> <p>19 Will the court reporter please swear in the</p> <p>20 witness.</p> <p>21 COURT REPORTER: Mr. Frye, would you raise</p> <p>22 your right hand, please.</p> <p>23 KEVIN FRYE</p> <p>24 was sworn and testified as follows:</p> <p>25 THE WITNESS: I do.</p>	<p style="text-align: right;">Page 7</p> <p>1 Kevin Frye</p> <p>2 EXAMINATION</p> <p>3 BY MR. WILLIAMS:</p> <p>4 Q. Kevin, to get started, I just want to get a</p> <p>5 little bit of your background information. And let's</p> <p>6 start off with when did you arrive in Oxford?</p> <p>7 A. I came to Oxford in 2002 to start law school</p> <p>8 here.</p> <p>9 Q. And how long were you here for law school?</p> <p>10 A. I graduated in 2005. Started a job in</p> <p>11 Jackson; was there for about 18 months, 20 months or</p> <p>12 so. And then I've been back in Oxford since early</p> <p>13 2007.</p> <p>14 Q. And what did you do when you arrived back in</p> <p>15 Oxford in 2007?</p> <p>16 A. Well, my first job was working for Judges</p> <p>17 Howorth and Lackey in the Circuit Court of our</p> <p>18 district in the Lafayette County Circuit Court</p> <p>19 building.</p> <p>20 Q. And this was the courthouse in the middle of</p> <p>21 the square --</p> <p>22 A. Yes.</p> <p>23 Q. -- or was it in the courthouse that is now</p> <p>24 the Chancery building?</p> <p>25 A. Well, actually both. When I first started</p>
<p style="text-align: right;">Page 8</p> <p>1 Kevin Frye</p> <p>2 working, it coincided with some remodeling that</p> <p>3 occurred on the grounds of the Circuit Court building.</p> <p>4 So I started working for Judge Howorth. My office was</p> <p>5 in the white courthouse in the center of the square.</p> <p>6 I can't remember the month, but somewhere in</p> <p>7 April, I'm thinking, May sometime, we moved into the</p> <p>8 Chancery Building where we were until -- well,</p> <p>9 actually I took a different job, opened my office</p> <p>10 before we were able to move back into the regular</p> <p>11 Circuit Court building.</p> <p>12 Q. When did you open your office again?</p> <p>13 A. Late 2007.</p> <p>14 Q. What sort of practice have you developed</p> <p>15 since late 2007?</p> <p>16 A. General practice law firm. We do a variety</p> <p>17 of different small business work, family law work, and</p> <p>18 criminal defense work.</p> <p>19 Q. Does your practice ever require you to</p> <p>20 litigate or visit the Circuit Courthouse in the middle</p> <p>21 of the square in Oxford?</p> <p>22 A. Sure. Regularly, yes. I'm there</p> <p>23 frequently.</p> <p>24 Q. And when you say "regularly" or</p> <p>25 "frequently," what does that mean?</p>	<p style="text-align: right;">Page 9</p> <p>1 Kevin Frye</p> <p>2 A. Well, our term of court happens once a</p> <p>3 quarter, so January, April, July, and October. I'm</p> <p>4 always there in those months off and on. And beyond</p> <p>5 that probably I'm in that building at least three or</p> <p>6 four times a month if there's nothing going on. And</p> <p>7 if there is court going on, I'm there almost on a</p> <p>8 daily basis during those months of term.</p> <p>9 Q. Where is your office located in relation to</p> <p>10 the Circuit Courthouse in Oxford, Mississippi?</p> <p>11 A. Currently my office is at 1100 Tyler, which</p> <p>12 is on 11th and Tyler Avenue. For those familiar with</p> <p>13 Oxford, kind of what I tell everybody is the parking</p> <p>14 lot behind City Grocery is what my office faces. So I</p> <p>15 can see the clock tower of the courthouse from the</p> <p>16 front door.</p> <p>17 When I first started my practice -- I guess</p> <p>18 I have had a couple of different offices. But for</p> <p>19 almost five years I was above My Favorite Shoes in the</p> <p>20 space there with the balcony that overlooks the</p> <p>21 courthouse. So throughout the time I've practiced in</p> <p>22 Oxford, my office has been on or immediately around</p> <p>23 the square.</p> <p>24 Q. So My Favorite Shoes is on the square</p> <p>25 itself?</p>

<p style="text-align: right;">Page 10</p> <p>1 Kevin Frye</p> <p>2 A. It is, yes. It's on the west -- I guess</p> <p>3 that would be the southwest corner of the square.</p> <p>4 Q. And it faces directly to the courthouse?</p> <p>5 A. Yes. The south lawn of the courthouse;</p> <p>6 that's right.</p> <p>7 Q. At some point you were elected supervisor</p> <p>8 for Lafayette County; am I correct?</p> <p>9 A. That's right. I took office in January of</p> <p>10 2016.</p> <p>11 Q. And for how long were you a supervisor?</p> <p>12 A. One term, four years.</p> <p>13 Q. And tell me generally what your</p> <p>14 responsibilities were as a supervisor?</p> <p>15 A. Broadly, I think, the health, safety and</p> <p>16 welfare of the residents of Lafayette County. That</p> <p>17 encompasses a wide variety of things from, you know,</p> <p>18 the provision of local government services like roads</p> <p>19 and bridges and picking up the trash to maybe some</p> <p>20 other things that people don't think about as much</p> <p>21 like dealing with the jail or with the court system,</p> <p>22 things like that.</p> <p>23 Q. We'll return to that in a little bit.</p> <p>24 Now, I'm going to ask you some questions</p> <p>25 just about the layout of the courthouse. And when I</p>	<p style="text-align: right;">Page 11</p> <p>1 Kevin Frye</p> <p>2 say "the courthouse," I'm talking about the Circuit</p> <p>3 Court building that's in the middle of the square.</p> <p>4 And I have some photographs that I have marked as</p> <p>5 Exhibit B composite. Would you download those,</p> <p>6 please, if you have not done that already?</p> <p>7 A. Yeah, I have them here. I have them.</p> <p>8 (EXHIBIT B, COMPOSITE EXHIBIT OF PHOTOGRAPHS</p> <p>9 B-1 - B-23 WAS MARKED FOR IDENTIFICATION.)</p> <p>10 Q. And then I have a second document that I'm</p> <p>11 getting ready to upload right now. It's Exhibit A.</p> <p>12 And it's just a map taken from, I think, probably a</p> <p>13 Chamber of Commerce or Tourism Board. But I want to</p> <p>14 use this to make certain that we stay oriented as we</p> <p>15 go through the photographs.</p> <p>16 Have you opened that?</p> <p>17 A. Yes.</p> <p>18 (EXHIBIT A, MAP OF DOWNTOWN OXFORD, WAS</p> <p>19 MARKED FOR IDENTIFICATION.)</p> <p>20 Q. And so do you see the courthouse in the</p> <p>21 center of that map excerpt?</p> <p>22 A. I do.</p> <p>23 Q. I have superimposed the dial of a clock on</p> <p>24 the courthouse itself. And what I would like to do as</p> <p>25 we go through these photographs is use a reference to</p>
<p style="text-align: right;">Page 12</p> <p>1 Kevin Frye</p> <p>2 the number on the dial to keep us oriented. And that</p> <p>3 way it will be easy for everybody to look at where we</p> <p>4 are, approximately, as you're describing the content.</p> <p>5 While we have this open your first office</p> <p>6 that was on the square, approximately where was it</p> <p>7 when you look at this dial?</p> <p>8 A. 71 and 72, 73. That looks to me to be the</p> <p>9 first floor, so it's above those numbers there, which</p> <p>10 is located at 8 on the dial.</p> <p>11 Q. Was this the office space that Steve McDavid</p> <p>12 offered for a while?</p> <p>13 A. Yes, yes. He still has space up there, as I</p> <p>14 understand. I had an office up there; that's right.</p> <p>15 Q. Okay. And so it faced -- his second-story</p> <p>16 office faces directly onto the square. And if I</p> <p>17 remember correctly, there are windows where you can</p> <p>18 look out and see onto the square itself; is that</p> <p>19 correct?</p> <p>20 A. That's right.</p> <p>21 Q. And on this dial approximately where is</p> <p>22 your -- the direction of your present office?</p> <p>23 A. If you take 7 and follow it through those</p> <p>24 buildings, directly behind those buildings.</p> <p>25 Q. There's a parking lot immediately behind</p>	<p style="text-align: right;">Page 13</p> <p>1 Kevin Frye</p> <p>2 those buildings?</p> <p>3 A. That's correct.</p> <p>4 Q. And your office building is just on the</p> <p>5 other side of that parking lot?</p> <p>6 A. That's right. It looks right at it.</p> <p>7 Q. Okay. And so, again, if you'll just use</p> <p>8 this to keep us oriented during your testimony of what</p> <p>9 we're getting ready to look at.</p> <p>10 Let's open up Composite Exhibit B.</p> <p>11 A. Okay. I've got it.</p> <p>12 Q. Okay. So do you see the photograph that has</p> <p>13 the label Exhibit B-1 underneath it?</p> <p>14 A. I do.</p> <p>15 Q. And what do you see?</p> <p>16 A. That's the southern view of the courthouse</p> <p>17 taken from right about 5 o'clock on your dial, it</p> <p>18 looks like, in front of Village Tailor probably, maybe</p> <p>19 next door to that.</p> <p>20 Q. Okay. What is Village Tailor?</p> <p>21 A. Village Tailor is number 2 on your map.</p> <p>22 It's a business that sells women's clothing on the</p> <p>23 square.</p> <p>24 Q. Okay. Let's move down to Exhibit B-2. And</p> <p>25 what is that?</p>

<p style="text-align: right;">Page 14</p> <p>1 Kevin Frye</p> <p>2 A. This is a view from the -- right to the</p> <p>3 north, just right directly north of the Confederate</p> <p>4 monument on the square looking at the sidewalk that</p> <p>5 faces My Favorite Shoes.</p> <p>6 Q. So can we see where your office was located</p> <p>7 in the photograph that's Exhibit -- that's identified</p> <p>8 as Exhibit B-2?</p> <p>9 A. You can. The building in the left top</p> <p>10 corner, you can see white railing. And that's the</p> <p>11 second floor. My office was up there. You can see a</p> <p>12 couple of windows that lead into the hallway and that</p> <p>13 balcony there, yes.</p> <p>14 Q. Now, does this photograph accurately</p> <p>15 represent the square? Do you have any doubt as to</p> <p>16 whether it's a true representation?</p> <p>17 A. No. Actually it appears to represent the</p> <p>18 square at Christmastime, if you want me to be more</p> <p>19 specific.</p> <p>20 Q. Tell me about that sidewalk.</p> <p>21 A. Yeah. Well, you say a "sidewalk." I mean</p> <p>22 it's a narrow -- it's a narrow sidewalk that will get</p> <p>23 you from these few parking spaces around the</p> <p>24 courthouse into the courthouse area proper. There's a</p> <p>25 crosswalk south to the left in the picture of where</p>	<p style="text-align: right;">Page 15</p> <p>1 Kevin Frye</p> <p>2 you are that leads to Square Books, but there's not a</p> <p>3 crosswalk looking straight ahead as we are towards My</p> <p>4 Favorite Shoes.</p> <p>5 Q. Do you know whether the sidewalk circumvents</p> <p>6 the courthouse or does it just extend around part of</p> <p>7 the courthouse?</p> <p>8 MR. O'DONNELL: Object to the form. Go</p> <p>9 ahead.</p> <p>10 A. It goes around. You can make your way</p> <p>11 around the courthouse on that sidewalk.</p> <p>12 Q. Okay. So the answer is yes, you do know?</p> <p>13 MR. O'DONNELL: Object to the form.</p> <p>14 A. Yes.</p> <p>15 Q. And based upon your knowledge -- what is</p> <p>16 your knowledge about whether it goes around or not?</p> <p>17 A. To my knowledge, you can go all the way</p> <p>18 around. At least I've done that before.</p> <p>19 Q. So can you tell me about the establishments</p> <p>20 that we see on the square from this angle?</p> <p>21 A. Sure. You have My Favorite Shoes at the</p> <p>22 bottom left building. I can't remember what all of</p> <p>23 them are, frankly. You have the blue awning that's</p> <p>24 Katherine Beck. It's not a store I shop in. The next</p> <p>25 building, the green building, is the Round Table,</p>
<p style="text-align: right;">Page 16</p> <p>1 Kevin Frye</p> <p>2 which is a restaurant. And then as you move farther,</p> <p>3 you get over towards -- outside the picture towards</p> <p>4 where Ajax is.</p> <p>5 Q. And what is Ajax?</p> <p>6 A. Ajax is a restaurant located on the west</p> <p>7 side of the square.</p> <p>8 Q. What is its size or volume like, if you</p> <p>9 know?</p> <p>10 A. It's quite busy. It's one of the busiest</p> <p>11 restaurants in Oxford, I think, volume wise.</p> <p>12 Q. Do you know what sort of hours they keep?</p> <p>13 A. They are open at 11:30. And I know that,</p> <p>14 from having been on the square for so many years,</p> <p>15 there's always a line. Maybe not during COVID. But</p> <p>16 most other times there's a line to get in the door</p> <p>17 before 11:30. I don't know what time they close.</p> <p>18 Generally I'm usually at home asleep, frankly.</p> <p>19 Q. Do you know whether they have dinner hours?</p> <p>20 A. They do, yes.</p> <p>21 Q. So let's move to Exhibit B-3, the next</p> <p>22 photograph. What is that?</p> <p>23 A. That is a view from the courthouse lawn,</p> <p>24 which would be on the southern side of the courthouse</p> <p>25 looking at the Confederate monument and towards</p>	<p style="text-align: right;">Page 17</p> <p>1 Kevin Frye</p> <p>2 Village Tailor, which is directly behind there with</p> <p>3 those black awnings, which you can see kind of to the</p> <p>4 right of the Confederate monument.</p> <p>5 Q. And where is it, approximately, on our</p> <p>6 clock?</p> <p>7 A. Where is what? Village Tailor you're</p> <p>8 speaking of?</p> <p>9 Q. No. The vantage point from which this</p> <p>10 photograph appears to be taken.</p> <p>11 A. Oh, at about 6:30, I'd say.</p> <p>12 Q. There's a gate that leads from the</p> <p>13 courthouse into the street, yes or no?</p> <p>14 A. Yes. Those two red ribbons that you can see</p> <p>15 mark either side of the end of the fence line, if</p> <p>16 that's what you're speaking of.</p> <p>17 Q. Would you describe any gates that can be</p> <p>18 used to lock or close the entrance to the fence -- I</p> <p>19 mean the entrance to the courthouse?</p> <p>20 A. There is no gate. And it's, to my</p> <p>21 knowledge, never been closed off.</p> <p>22 Q. Have you ever seen it closed off with a</p> <p>23 gate?</p> <p>24 A. During construction in 2007 it was closed</p> <p>25 off with a gate while the remodel of the building was</p>

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2 being completed. I've seen recently when they put

3 some new sod down, I saw some orange construction tape

4 to keep people off the new sod. But other than that,

5 no, it's not typically closed for any reason unless

6 it's construction.

7 Q. Now, in the lower left-hand quadrant, I see

8 what appear to be benches. Can you tell me what those

9 are?

10 A. Yeah. So there's a sitting area on the

11 south side as you enter the courthouse lawn. There

12 are benches both on this side of the sidewalk, which

13 is on the west side, and on the east side of the

14 sidewalk for people to sit and relax. It's a nice

15 shaded spot in the summer particularly.

16 Q. Have you ever seen people seated there?

17 A. Regularly.

18 Q. Let's scroll down to the photograph that's

19 marked as Exhibit B-4. Can you tell me what that is?

20 A. This is a view from the courthouse lawn. We

21 are at the intersection of the -- if you come out of

22 the south entrance to the courthouse, there's a

23 sidewalk that you can take that runs along the

24 building. That's the bricks that you see. And then

25 you kind of see intersecting with that the sidewalk

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2 building?

3 A. Yeah. Upstairs is Rooster's and downstairs

4 is a steak restaurant, The Oxford Grillehouse I

5 believe it's called.

6 Q. What is Rooster's?

7 A. Rooster's is a restaurant and bar.

8 Q. Do you know how popular the bar is?

9 A. Yes, it's popular based on --

10 MR. O'DONNELL: That's a loaded question.

11 A. It is. I could tell you a lot of stories

12 about that.

13 But yeah, based on the number of clients

14 that come and see me having been at Rooster's, I will

15 tell you it's popular with the college-age crowd for

16 sure.

17 Q. Now, when you say "it's popular with the

18 college-age crowd" --

19 A. Maybe they're just the ones that come to see

20 me. Like I said earlier, I've got two kids that are

21 under five, so I haven't spent time on the square late

22 night in years. But it's a popular place.

23 Q. Can you tell approximately when the

24 college-age students are there based -- and I

25 certainly don't want you to disclose confidence of any

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2 that runs circular around the lawn. Anyway, what

3 we're looking at is that gate that goes over towards

4 My Favorite Shoes where my former office used to be.

5 There's not a crosswalk there, but it gets used by

6 people coming from that direction if you were to park

7 across the street.

8 Q. Let's move up to the exhibit that's marked

9 as Exhibit B-5.

10 A. Okay.

11 Q. And what is that?

12 A. This is a picture from the southwest corner

13 of the courthouse looking towards the northwest there.

14 You can see Ajax, which is the yellow -- well, you see

15 JCP Apparel, which is the white building that has the

16 sign, and then Ajax is under the balcony left of

17 there. You see Bour? which is a restaurant as well.

18 Q. Okay. Now, the yellow building with the

19 orange footers and we see what looks like the new

20 Mississippi flag on the pole, do you know what's

21 inside of that building?

22 A. Yes. That's where Ajax is located.

23 Q. Okay. Now, on the corner, behind a red

24 sedan and a white pickup truck, there's a sort of

25 tan-colored building. Do you know what's in that

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2 particular client. But based upon your practice

3 generally, can you tell me when it's popular?

4 A. Oh, sure. Late night, in the evenings after

5 dark most of the time.

6 Q. If we move across the street -- and if I

7 recall correctly, that's where Jackson Avenue

8 begins -- there's a two-story green building. What is

9 that?

10 A. Green, that Bour? building.

11 Q. And what is Bour??

12 A. Bour? is a restaurant that's part of the

13 City Grocery Restaurant Group.

14 Q. And what is the City Grocery Restaurant

15 Group?

16 A. It's a set of restaurants owned by John

17 Currence.

18 Q. And who is John Currence?

19 A. He's a local restaurateur in the Oxford

20 community.

21 Q. Do you know whether he has any sort of

22 reputation nationally insofar as food is concerned?

23 A. Sure. He's a James Beard award winner and

24 he's well known throughout the country, I believe.

25 Q. Do you have any reason to know how popular

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2 that restaurant is?

3 A. Bour?, yeah. It's a place I've spent a lot

4 of time over the years. It's quite popular.

5 Q. How would you describe, I guess, the volume

6 of its business when you've been there?

7 A. Busy. It's usually half full, at least.

8 It's quite a busy place.

9 Q. Is it a small or large establishment?

10 A. It's a big establishment. You can fit quite

11 a number of people in there. We actually had our

12 wedding reception there a number of years ago.

13 Sorry. We're getting the door closed to my

14 office. We're having a little distraction here.

15 Go ahead.

16 Q. Before we -- well, I've got a couple of

17 other questions about this. So if you look by the

18 black Jeep --

19 A. Yes.

20 Q. -- what's right in front of the black Jeep?

21 A. That's a crosswalk to cross to the parking

22 spots there.

23 Q. We've got two red ribbons. What's between

24 the two red ribbons?

25 A. That's the stairs up to the courthouse lawn

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2 vantage point practically near the 8 o'clock spot

3 where the last picture was taken from. But rather

4 than looking northwest, it looks directly north. You

5 can see YaYa's, which is a frozen yogurt and custard

6 business, and the Tollison Law Office on the second

7 floor.

8 Q. Now, where is YaYa's?

9 A. It's on the first floor right over the top

10 of the car that you can see parked around the

11 courthouse lawn.

12 Q. Now, let's move to Exhibit B-7. And I'll

13 represent to you that this is a panoramic shot taken

14 -- my son took with his iPhone. Needless to say,

15 there's distortion that's introduced simply because of

16 the angle of taking the shot. But what does this

17 represent?

18 A. This represents a view from 9 o'clock on the

19 courthouse, taken directly from the west side of the

20 courthouse. You can see on the left edge of the

21 picture Square Books, which is a well-known landmark

22 on the south side of the square, going all the way to

23 the right side of the picture where you can see -- I'm

24 not sure if you can see YaYa's. I think it might be

25 blocked off by the HVAC system for the courthouse.

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2 from the street level.

3 Q. Do you know whether pedestrians ever use the

4 crosswalk to get either from the courthouse to the

5 square itself or from the square to the courthouse?

6 A. Every day.

7 Q. Tell me about the gate that closes access to

8 the courthouse from the square between those two

9 ribbons.

10 A. Well, it's not a gate. It doesn't close

11 access. It's just -- reality is that the lawn of the

12 courthouse is elevated from street level. So the

13 purpose of that fencing is to keep somebody from

14 falling off more than to keep somebody in or out.

15 Q. And going back to our clock, where,

16 approximately, is this on the clock?

17 A. 9 o'clock.

18 Q. 9 o'clock being where the crosswalk is or 9

19 o'clock being from the photographer's apparent vantage

20 point?

21 A. 9 o'clock is where the crosswalk is. The

22 photographer is at 8 o'clock.

23 Q. Okay. So let's move down to Exhibit B-6.

24 And what is this?

25 A. This is -- okay. This is from the same

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2 But this is the entirety of the west side of the

3 square.

4 Q. And if we are positioned in front of the

5 crosswalk, where is that on our clock dial?

6 A. 9 o'clock.

7 Q. Okay. So let's move to Exhibit B-8. Do you

8 know what this is?

9 A. Yes. This is the view taken looking at the

10 west side of the courthouse where we were -- from the

11 perspective of the previous photographs looking at

12 where the photographer was standing. So we're in

13 front of one of these businesses on the west side of

14 the square facing the courthouse.

15 Q. And again, where are we on the clock?

16 A. 9 o'clock.

17 Q. Move to Exhibit B-9. What is this?

18 A. This looks like a picture taken of the

19 parking on the west side of the square. There's a

20 sidewalk. If you park your car facing towards the

21 east, there's a sidewalk there. It looks like the

22 photographer was standing there looking at the north

23 side of the courthouse. This fenced-in area is where

24 the HVAC system is. And then you can see Oxford City

25 Hall through the limbs of the tree here.

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1 Kevin Frye

2 Q. So when you say "fenced in," are you talking

3 about where the white pillars are with the wood slats?

4 A. The wooden fencing, yes.

5 Q. And where are we, approximately, on our

6 clock again?

7 A. Getting closer to 10 o'clock, maybe 9:45.

8 Q. Move down to Exhibit B-10.

9 A. Okay.

10 Q. What do we see here?

11 A. This is a view from the sidewalk that

12 encircles -- just outside this safety fencing here

13 looking at the north side of the square. Just outside

14 this picture to the right would be that same wooden

15 fence we were just looking at with the HVAC system.

16 Q. And where is this, approximately, on the

17 clock?

18 A. 10 o'clock.

19 Q. There's a multi-story sort of Victorian

20 brick building on the other side of the courthouse

21 grounds. It's orange or orangish-red. Do you know

22 what that is?

23 A. That's Oxford City Hall.

24 Q. And what's contained in the Oxford City

25 Hall?

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2 A. This is now on the north side of the

3 courthouse lawn. You can see the fencing, you can see

4 the dropoff to street level that I was discussing

5 earlier. And this is the sidewalk that surrounds the

6 courthouse lawn.

7 Q. And where are we, approximately, on our

8 clock?

9 A. 11:15 or so.

10 Q. Let's move to Exhibit B-12. And this is

11 another panoramic shot so, needless to say, the angles

12 are skewed a little bit. But what is that?

13 A. This is a photograph taken from the north

14 steps of the courthouse looking north up Lamar Avenue.

15 Q. And where would this be on the clock?

16 A. 12 o'clock.

17 Q. Tell me about looking up Lamar Avenue. What

18 is Lamar Avenue?

19 A. One of the main thoroughfares through the

20 City of Oxford. Lamar runs north and south and is the

21 north/south artery for the square.

22 Q. Do you know what sort of establishments you

23 can find going up the first, say, two blocks of North

24 Lamar?

25 A. Sure. On the right-hand side is First

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1 Kevin Frye

2 A. Most of the City of Oxford's staff,

3 administrative staff, at least. It used to also

4 include the City Court, which has recently moved. But

5 the mayor's office, offices of the planning

6 department, the building department, et cetera.

7 Q. If you look just to the right of that,

8 there's a brick building that is two stories with a

9 flat roof. Do you know what's housed in there?

10 A. Yes. The first floor is Square Books, Jr.

11 The second floor is now -- I believe it's still Rare

12 Square Books or something similar to that. I've not

13 been in there since it was converted from a law

14 office. But that's what's upstairs now.

15 Q. And what is Square Books, Jr.?

16 A. A kids' bookstore.

17 Q. Who owns it?

18 A. The former mayor, Richard Howorth.

19 Q. Does he own any other book stores?

20 A. Square Books and Off Square Books, which are

21 also on the square.

22 Q. And we spoke of Square Books a moment ago in

23 one of the earlier photographs; correct?

24 A. Correct.

25 Q. So let's move to Exhibit B-11.

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2 National Bank, the big brick building there. And then

3 past that, beyond that, is the Chancery Building,

4 Lafayette County Chancery Building, which includes the

5 Chancery Court, the Tax Assessor's Office, the

6 Chancery Clerk's Office, the Board of Supervisors

7 offices.

8 On the left side of the road is YaYa's and

9 the Tollison Law Office we talked about earlier. Past

10 that is the Blind Pig and a number of other retail

11 businesses leading up to the coffee shop.

12 Q. What is the Blind Pig?

13 A. The Blind Pig is a restaurant and bar.

14 Q. Have you ever had any clients who part of

15 their story is being at the Blind Pig?

16 A. I've had clients that part of their story is

17 being in every restaurant, Jack. So yes, I'm familiar

18 with the square.

19 Q. Do you know whether the Blind Pig is popular

20 in the evening based on your professional practice?

21 A. Absolutely it is, yes.

22 Q. And do you know what people do there in the

23 evening?

24 A. They eat and drink, play pool, trivia

25 sometimes.

<p style="text-align: right;">Page 30</p> <p>1 Kevin Frye</p> <p>2 Q. The same question about gates on the fence</p> <p>3 that we can see based on the little red dots that are</p> <p>4 ribbons. Do you know whether there have been any</p> <p>5 gates erected there to regularly close off access to</p> <p>6 the courthouse?</p> <p>7 A. No. Access is never closed off. The only</p> <p>8 time I can remember the north side having any access</p> <p>9 closed off was in 2007 during the remodeling project.</p> <p>10 And at that time the courthouse was vacant. None of</p> <p>11 the functions of County government were occurring</p> <p>12 there. They were elsewhere. It was a construction</p> <p>13 zone.</p> <p>14 Q. Now, we keep seeing this brick sidewalk in</p> <p>15 these photographs. Do you know the course of the</p> <p>16 sidewalk generally insofar as its relation to the</p> <p>17 courthouse is concerned?</p> <p>18 A. I'm not sure I understand the question. I</p> <p>19 know where it goes, if that's what you're asking, yes.</p> <p>20 Q. Well, let's go with that. Where does it go?</p> <p>21 A. Well, so if you walked up -- the view we're</p> <p>22 looking at here, if you walk from the street south,</p> <p>23 you would go into the northern doors of the</p> <p>24 courthouse. As you can see to the left of the</p> <p>25 picture -- which would be, I guess, stage right if</p>	<p style="text-align: right;">Page 31</p> <p>1 Kevin Frye</p> <p>2 you're walking south -- that's a circle that goes</p> <p>3 around the building, the brick. And at each of the</p> <p>4 four directions of the compass, these gates are at</p> <p>5 each of those four -- north, south, east, and west</p> <p>6 locations.</p> <p>7 Q. So does the sidewalk circumvent the</p> <p>8 courthouse, the brick sidewalk?</p> <p>9 A. It does.</p> <p>10 Q. Not circumvent but --</p> <p>11 A. It goes around. It circles it, yes.</p> <p>12 Q. Continuously?</p> <p>13 A. Yes.</p> <p>14 Q. So looking in front of the fenced-in HVAC</p> <p>15 system, what do you see?</p> <p>16 A. A bench.</p> <p>17 Q. Do you know how many people can sit on those</p> <p>18 benches, approximately?</p> <p>19 A. It depends on the size of the people. But</p> <p>20 two to four, I'd say.</p> <p>21 Q. So let's move to Exhibit B-13.</p> <p>22 A. Okay.</p> <p>23 Q. And what is this?</p> <p>24 A. This is a view of the north side of the</p> <p>25 courthouse taken from the corner where First National</p>
<p style="text-align: right;">Page 32</p> <p>1 Kevin Frye</p> <p>2 Bank -- or maybe it's FNB now, I think. This was</p> <p>3 taken from about 12:30 or so.</p> <p>4 Q. And let's move down to B-14. What is this?</p> <p>5 A. This is a view taken from the northeast</p> <p>6 corner of the courthouse lawn. Behind us would be the</p> <p>7 City Hall building we saw earlier. And you're looking</p> <p>8 across the north entrance to the Circuit Court.</p> <p>9 Q. Now, if you look towards the right, we see a</p> <p>10 green two-story building with garland on it. And what</p> <p>11 building is that?</p> <p>12 A. That's Bour?.</p> <p>13 Q. And there's a street that runs between the</p> <p>14 courthouse and the buildings that include Bour? and</p> <p>15 include the Tollison Law Firm. Does that street</p> <p>16 extend past the square?</p> <p>17 A. Yes, it does. That's Jackson Avenue. It's</p> <p>18 a main east/west artery in the City of Oxford.</p> <p>19 Q. Are there any establishments located on</p> <p>20 Jackson Avenue just off of the square?</p> <p>21 A. A number of them, particularly as you go</p> <p>22 west. As you go east down behind the City Hall, it's</p> <p>23 more residential there.</p> <p>24 Q. And so we're looking west -- or at least the</p> <p>25 photographer is looking west -- in Exhibit B-14;</p>	<p style="text-align: right;">Page 33</p> <p>1 Kevin Frye</p> <p>2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. Can you tell me what sort of establishments</p> <p>5 are down there?</p> <p>6 A. Well, you can see past Bour? is the M&F --</p> <p>7 Renasant Bank. It used to be M&F Bank. Then there's</p> <p>8 another restaurant and then there's the Lamar -- what</p> <p>9 do they call that -- Saint Leo, Saint Leo Lounge.</p> <p>10 That's on the north side of the road.</p> <p>11 On the south side after you pass Rooster's</p> <p>12 there's an alley, and then there's Funkys and a number</p> <p>13 of other college-popular restaurant/bar areas as you</p> <p>14 go that direction until you get to St. Peters and the</p> <p>15 Federal Building.</p> <p>16 Q. And what is Funkys exactly?</p> <p>17 A. Funkys is a pizza and daiquiri</p> <p>18 restaurant/bar.</p> <p>19 Q. Now, when you said popular with college</p> <p>20 students, what does that mean?</p> <p>21 A. That means if you're in that part of town</p> <p>22 after 9 p.m., you're going to see a lot of college</p> <p>23 kids during -- at least during school time.</p> <p>24 Incidentally, Rafters is down that way, and</p> <p>25 it's popular with the Sunday brunch crowd. So it's</p>

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1 Kevin Frye

2 not just at night, I suppose.

3 Q. Do you know whether any events ever take

4 place on this lawn? When we listened to Mr. Busby the

5 other day, he talked about a VA -- some sort of VA

6 event. Are you familiar with a Veterans event?

7 A. I am. Actually the place we're looking at

8 right here, this particular spot, is used every year

9 for the law enforcement memorial ceremony. There are

10 chairs that are set up, folding chairs. A podium is

11 usually placed right near where this bench is. And

12 it's a ceremony that happens around lunchtime every

13 year. There's quite a crowd there.

14 Q. When you say "quite a crowd," what does that

15 mean?

16 A. 100 people, give or take; all of the elected

17 officials in the community from law enforcement to

18 supervisors, aldermen, legislators.

19 Q. Okay. Let's move to B-15. And what do we

20 see?

21 A. This is a picture of that same location we

22 were just looking at, just from further away over in

23 front of -- the picture is taken from over in front of

24 City Hall. It looks like we're right about 2 o'clock

25 on your dial.

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1 Kevin Frye

2 Q. Now, you said "the gate, if you want to call

3 it that." Is there a gate that can be closed that

4 would limit access to the courthouse grounds on that

5 opening?

6 A. No, there is not.

7 Q. So now we're moving to Exhibit B-17.

8 A. Okay.

9 Q. And what do we see here?

10 A. B-17, we are at the northeast corner of the

11 courthouse looking south along the eastern wall of the

12 building. We see a number of benches here. This is

13 an area where, until quite recently, the Oxford

14 transit busses -- the bus stop was right across the

15 street here. And where you see this vehicle coming

16 around, there were parking spots there. And this was

17 an area used for people who were riding transit to

18 wait and have a place to sit.

19 Once the parking garage was finished, we --

20 or the City moved the transportation center point over

21 to near the parking garage. But that's just been

22 within the last year or so.

23 Q. At the end of this photograph there's some

24 other buildings. And I'm assuming this is the

25 southeast side of the square; is that correct?

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1 Kevin Frye

2 Q. Now, there are some signs on the railing.

3 And, of course, it's not blown up to see that. But do

4 you know what those signs are?

5 A. I know what they say. One of them is for --

6 they say "Parking for the Sheriff's Department and/or

7 the Circuit Court Judge only." So Jeff Busby parks

8 about. If one of our out-of-town Circuit Court judges

9 is there, he will park there. You'll also see from

10 time to time Sheriff's Department vehicles parked

11 there, too.

12 Q. So is it fair to say these are signs that

13 warn drivers and citizens not to occupy that space?

14 A. Right. It's not public parking; that's

15 correct.

16 Q. Let's move down to Exhibit B-16.

17 A. Okay. This photograph is taken also from, I

18 guess maybe more in front of Square Books, Jr. We're

19 right about 3 o'clock on the dial looking at the east

20 side of the courthouse.

21 Q. Now, there's a crosswalk. Where does that

22 crosswalk go?

23 A. Onto the courthouse lawn through the gate,

24 if you want to call it that, the opening in the

25 fencing on the east side of the building.

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2 A. That's correct. You can see the kind of

3 yellow building with the diamonds on the left, kind of

4 the left side of the picture. That's Square Books,

5 Jr. And then as you move across, there are a number

6 of other retail on the first floor, condos/apartments

7 on the second floor. And kind of behind this big tree

8 trunk is where Village Tailor -- where we started.

9 That's where that business is.

10 Q. The big tree trunk that has a wide sedan in

11 the lower left-hand corner of it?

12 A. Yeah. It kind of looks like a pickup to me.

13 Q. Well, it's a white vehicle of some sort?

14 A. Right.

15 Q. Okay. So let's move to Exhibit B-18. What

16 is this?

17 A. This is a picture looking at the north --

18 excuse me -- the south lawn of the courthouse. You

19 can see the Confederate monument on the left side of

20 the screen. We are standing on the sidewalk nearest

21 those parking spots in front of Neilson's basically.

22 So we're right about 4 o'clock on the dial.

23 Q. And would you describe the monument as we

24 see it in this photograph?

25 A. Yeah. It's the tall -- through the trees --

<p style="text-align: right;">Page 38</p> <p>1 Kevin Frye</p> <p>2 it's the concrete figure that is rising vertically</p> <p>3 through the trees on the other side of the silver car.</p> <p>4 Q. And is it on the courthouse grounds itself?</p> <p>5 A. Well --</p> <p>6 Q. Let me back up. Is it within the fenced-in</p> <p>7 closure?</p> <p>8 A. No, it's not within the fenced-in closure.</p> <p>9 Q. Let's move to Exhibit B-19. And what do we</p> <p>10 see here?</p> <p>11 A. This is the same view. Now we've kind of</p> <p>12 moved back up to closer to 3 o'clock. And it looks</p> <p>13 like, if you see right in the very bottom of the</p> <p>14 picture, this yellow striping. This is what I was</p> <p>15 referring to earlier where the busses would pull in</p> <p>16 for the transit. So we're right in that area.</p> <p>17 Q. Let's move to Exhibit B-20. What do we have</p> <p>18 here?</p> <p>19 A. This is a similar view, but now we're back</p> <p>20 on the grounds of the courthouse. If you can see --</p> <p>21 earlier I referred to some orange construction tape</p> <p>22 for fresh sod. If you look at the sod, you can see</p> <p>23 the lines there. This is the fresh sod I was</p> <p>24 referring to. The tape is down. It was only up for a</p> <p>25 couple of days, I think. But you can see the south</p>	<p style="text-align: right;">Page 39</p> <p>1 Kevin Frye</p> <p>2 lawn of the courthouse and the benches there, and the</p> <p>3 monument is just outside the picture near that white</p> <p>4 pickup truck.</p> <p>5 Q. Do you know how many benches are there?</p> <p>6 A. There are three each on either side of the</p> <p>7 sidewalk leading into the south entrance. So you can</p> <p>8 see three near the trash can there arranged in a kind</p> <p>9 of circular form, and then there are three on the</p> <p>10 other side. You can see this one close to us is a</p> <p>11 bench that faces out. And there's one on the other</p> <p>12 side as well. So that's eight as I count it.</p> <p>13 Q. And where are we on the clock,</p> <p>14 approximately?</p> <p>15 A. 4, between 3 and 4.</p> <p>16 Q. Now, let's move down to Exhibit B-21. And</p> <p>17 what do we have here?</p> <p>18 A. This is an image taken from right at the</p> <p>19 edge of the south sidewalk that leads into the</p> <p>20 courthouse. You can see the fencing here. You can</p> <p>21 see the dropoff that it's protecting. This is the</p> <p>22 sidewalk. There's a handicap spot there. And then</p> <p>23 just to our right, if we were to look south, you would</p> <p>24 see the Confederate monument.</p> <p>25 Q. Now, when you say there's a handicap spot</p>
<p style="text-align: right;">Page 40</p> <p>1 Kevin Frye</p> <p>2 there, how do you know that?</p> <p>3 A. I see the blue sign, and I know it just</p> <p>4 because I serve on the Parking Commission and I'm</p> <p>5 familiar with the provision of parking on the square</p> <p>6 as well.</p> <p>7 Q. If we look across the street, there's a</p> <p>8 building that appears to have a number of display</p> <p>9 fronts inside of it. Do you know what that is?</p> <p>10 A. Yes. That's Neilson's.</p> <p>11 Q. And what is Neilson's?</p> <p>12 A. The oldest department store in the South, I</p> <p>13 think is how they market it. It's a department store.</p> <p>14 Q. If we go across the street from Neilson's,</p> <p>15 we see the start of another series of buildings on the</p> <p>16 southeast corner of the square. You mentioned that</p> <p>17 Square Books --</p> <p>18 A. Not Square Books.</p> <p>19 Q. Not Square Books? What else is located on</p> <p>20 there that you know of?</p> <p>21 A. The law office of Mitchell McNutt & Sams, I</p> <p>22 believe, is still there. There was a jewelry store,</p> <p>23 but I think it's recently gone out. The Frame Up was</p> <p>24 there. Same thing, I'm not sure if either of those</p> <p>25 are still there.</p>	<p style="text-align: right;">Page 41</p> <p>1 Kevin Frye</p> <p>2 Down the hill there is Tallahatchie Gourmet.</p> <p>3 Q. And what is Tallahatchie Gourmet?</p> <p>4 A. It's a restaurant that's located on the</p> <p>5 first floor of Neilson's or maybe the basement. I</p> <p>6 don't know how they consider it.</p> <p>7 Q. Okay. So let's move to Exhibit B-22. And</p> <p>8 what is this?</p> <p>9 A. This is a picture of the south entrance to</p> <p>10 the courthouse taken from the area where the</p> <p>11 Confederate monument sits, the base of it.</p> <p>12 Q. Where is it, approximately, on the clock?</p> <p>13 A. 6 o'clock.</p> <p>14 Q. Now, you mentioned earlier that there are</p> <p>15 benches on either side of the sidewalk. Can we see</p> <p>16 those in this photograph?</p> <p>17 A. Right. Earlier when I mentioned that, we</p> <p>18 were standing over kind of where you see this</p> <p>19 flagpole. And you can see the corner of City Hall.</p> <p>20 But there are the three benches and the trash can to</p> <p>21 the right as well as the fourth bench there, and then</p> <p>22 on the left you can see two of the three benches there</p> <p>23 and another trash can.</p> <p>24 Q. So now let's move to Exhibit B-23.</p> <p>25 A. Okay.</p>

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2 Q. And what do we see here?

3 A. This is, I guess, another panoramic photo.

4 At least it seems that way. We're looking from the

5 south steps of the courthouse toward the south. So

6 what you see is the Confederate monument and South

7 Lamar extending beyond there. On the right side of

8 the monument is Square Books, on the left side of the

9 monument is Village Tailor through those tree leaves

10 there.

11 Q. So if we look past the Confederate monument,

12 that street is South Lamar; am I correct?

13 A. That's right.

14 Q. Are there any business establishments on

15 South Lamar that are close to the square?

16 A. Yes. On the left side immediately past

17 Village Tailor is Proud Larry's, which is a popular

18 restaurant. Across the alley from there a number of

19 businesses, including a cookie store, another

20 restaurant, SoLa down the way. On the right-hand side

21 you have Square Books. Currently there's a hole in

22 the ground where 208 used to stand. It's a popular

23 restaurant that's under construction, I think.

24 And then the next block includes a number of

25 other retail and restaurant storefronts.

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2 condo buildings down in that direction. To the right

3 there are a number of businesses -- City Grocery, Old

4 Venice, McEwen's, South Depot Taco Shop, Bottletree

5 Bakery -- and a number of other retail and a couple of

6 other restaurant storefronts.

7 Q. What is City Grocery?

8 A. City Grocery is the original of John

9 Currence's City Grocery Restaurant Group restaurants.

10 It's got a balcony that you can see if you look

11 carefully right next to the bank, which I guess

12 Regions Bank is still in that area. That white

13 framing that you see around those windows, that's

14 Regions Bank.

15 Q. How would you describe City Grocery's

16 popularity?

17 A. Terribly popular. It's one of the draws to

18 the square for anybody that comes to visit our

19 community.

20 Q. When you say "it's one of the draws to the

21 square," why is that?

22 A. John Currence is well known to make a good

23 dinner, and it's quite a fun experience to go and eat

24 there. And the upstairs bar area is, I would say,

25 probably the most popular townie bar, if you want to

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1 Kevin Frye

2 Q. Tell me about Proud Larry's. Do you know

3 whether it's open at night?

4 A. It is, yes. It's well known as one of our

5 original music venues in town. So they are a

6 nighttime -- they're a restaurant, but later at night

7 they become a music venue, at least when it's not

8 COVID time.

9 Q. Do you know whether they have a bar?

10 A. They do, yes.

11 Q. Now, there's a street that girds the -- runs

12 between the southern edge of the square and the

13 courthouse leading west, which that would run between

14 the south end of the square and the building in which

15 your office was previously housed; is that correct?

16 A. That's right.

17 Q. Are there -- and I don't recall the name of

18 that street.

19 A. Van Buren, I think it is.

20 Q. What's that?

21 A. Van Buren, I think. Isn't that right?

22 Yeah, Van Buren.

23 Q. Are there any establishments down Van Buren?

24 A. To the left we already talked about

25 Tallahatchie Gourmet. And then there are a variety of

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1 Kevin Frye

2 label it that. It's somewhere that you see a lot of

3 local folks if you're up there in the early evening,

4 which is when I might be found on the square, not late

5 night.

6 Q. Are you saying it's not popular late night

7 or you just have no personal experience?

8 A. Well, neither. Neither, Jack. What I'm

9 saying is that it's definitely popular late night, but

10 I don't have any recent experience. But happy hour

11 it's popular with a lot of adults that live in our

12 community.

13 Q. Are there any bars down the street, down Van

14 Buren?

15 A. Oh, yes. The Library is probably the

16 biggest as far as accommodating -- the Library and the

17 Lyric are across the street from one another, and they

18 are the two biggest bars that we have.

19 Q. Tell me about the Library.

20 A. The Library is a sports bar, but it's giant

21 as far as how many people it can accommodate inside.

22 Q. Do you have any reason to know whether it's

23 popular with college students in the evening?

24 A. Sure it is, yeah. During football season

25 they at times will charge a \$40 cover just to get in,

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1 Kevin Frye
2 and there's a line out the door.
3 Q. Have you ever been in the Library?
4 A. I have. Not at the time I just described.
5 But yes, I've been in there.
6 Q. And do you know what sort of beverages they
7 serve?
8 MR. O'DONNELL: Jack, where are you going
9 with this? Go ahead.
10 THE WITNESS: He's having fun.
11 A. Yes. They serve alcoholic beverages and I'm
12 sure a variety of nonalcoholic beverages, though I
13 cannot say I've ever -- I'm sure I've had a water
14 there at times.
15 Q. Have you had any clients who have been
16 picked up there?
17 A. Yes.
18 Q. On what basis?
19 A. Alcohol-related and drug-related charges.
20 Q. Okay. I want you to take just a moment and
21 review Exhibits B-21 through B-23 and tell me whether
22 there's anything in those exhibits that does not
23 accurately reflect the area of the square that is
24 being depicted.
25 A. No, there's not. These are all an accurate

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2 kind of the cultural hub of all of that. It's not
3 unusual on big weekends to see people start arriving
4 by Wednesday for SEC games, but for sure on Thursday.
5 And you'll see traffic lined up on South Lamar
6 sometimes half a mile down to get to the square.
7 Q. What happens on the square during football
8 weekends?
9 A. During football weekends what happens on the
10 square is lots of shopping, lots of eating, lots of
11 drinking, a lot of people out and about just moving
12 around. You'll see all of those benches that we've
13 looked at in pictures being used. You'll see just a
14 whole variety of people out and about.
15 Q. And at what hours of the day does this
16 occur, do you know?
17 A. All hours of the day. Especially if the
18 game is an early game, it will start earlier in the
19 day. But most of the shops usually open by 10
20 o'clock, sometimes a little earlier if it's a big
21 weekend. But, you know, all hours of the day up and
22 until the bars close at 1 o'clock. It used to be
23 midnight but now it's 1 o'clock.
24 Q. Have you ever been to Beale Street in
25 Memphis?

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1 Kevin Frye
2 depiction of the square as it exists today.
3 MR. WILLIAMS: We've been going for an hour
4 and 20 minutes, approximately. I'm prepared to move
5 on. But would anybody like to take a brief break?
6 MR. O'DONNELL: Let me take a five-minute
7 break, Jack, if you don't mind. Kevin's time is
8 valuable.
9 THE VIDEOGRAPHER: So we are going off
10 record. The time is 10:18.
11 (A RECESS WAS TAKEN.)
12 THE VIDEOGRAPHER: We're back on record.
13 The time is 10:23.
14 BY MR. WILLIAMS:
15 Q. Kevin, I want to spend a little bit of time
16 talking about events, civic events and other events
17 that happen on and around the square. And why don't
18 we start with football weekends. You mentioned
19 earlier that sometimes some of the restaurants and
20 bars are particularly busy during football weekends.
21 Can you tell me about football weekends in Oxford,
22 Mississippi?
23 A. Well, football weekends bring 10s of
24 thousands of residents -- of visitors to the community
25 plus residents who like to get out. And the square is

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1 Kevin Frye
2 A. Not recently, but yes.
3 Q. Have you ever been to Bourbon Street in New
4 Orleans?
5 A. Yes.
6 Q. And what is your recollection from your
7 prior life of what those streets were like at
8 nighttime?
9 A. Busy, very busy, similar to the square on a
10 big game weekend.
11 Q. When you say they were busy, what takes
12 place?
13 A. Food, restaurants, bars, shopping, that's
14 all going on, people moving about, going from place to
15 place, being social.
16 Q. And so you may have already answered this,
17 but can you liken activities on the square during
18 football weekends to activities at Beale Street in
19 Memphis or Bourbon Street in New Orleans?
20 MR. O'DONNELL: Object to the form.
21 BY MR. WILLIAMS:
22 Q. It's a yes or no question.
23 A. I think the answer to that is yes. Many
24 people liken them. I've always --
25 Q. So let me correct my form. How would you

<p style="text-align: right;">Page 50</p> <p>1 Kevin Frye</p> <p>2 liken Oxford's square on a football weekend to an</p> <p>3 evening on Bourbon Street or Beale Street?</p> <p>4 A. Oh, just similar in the feel of how many</p> <p>5 people are about, an energy that you get from, you</p> <p>6 know, just a lot of people interacting with one</p> <p>7 another and moving about from place to place. It's</p> <p>8 busy is the best way to put it.</p> <p>9 I always like to think of our square more</p> <p>10 like places that I've visited in Europe or in bigger</p> <p>11 cities as opposed to only thinking about Bourbon and</p> <p>12 Beale Streets, which are seen as a party culture. I</p> <p>13 think certainly that happens on the square. There's a</p> <p>14 bit of a party culture as well. But I just tend to</p> <p>15 think of it more as a place for the community to come</p> <p>16 together and be together and enjoy what the square has</p> <p>17 to offer as far as retail and restaurants are</p> <p>18 concerned.</p> <p>19 Q. Well, let's talk about that. If I recall</p> <p>20 correctly, Mr. Busby described the square as being the</p> <p>21 heart of the community. Is that a fair assessment?</p> <p>22 A. Absolutely.</p> <p>23 Q. And why do you say that?</p> <p>24 A. It's the center of both government and</p> <p>25 economics and culture in our community. You know, I</p>	<p style="text-align: right;">Page 51</p> <p>1 Kevin Frye</p> <p>2 think the University -- maybe the Grove might rival at</p> <p>3 times the cultural aspect on a game day just for</p> <p>4 people getting together. But on a day-to-day basis,</p> <p>5 not just on football game weekends, the square is the</p> <p>6 vibrant, beating heart of the community for sure.</p> <p>7 Q. Do you know what the Double Decker Festival</p> <p>8 is?</p> <p>9 A. Yeah. Actually I met my wife walking our</p> <p>10 Great Dane puppies at the Double Decker Festival 10</p> <p>11 years ago. So I buy a piece of art at Double Decker</p> <p>12 every year, and there's one right here over my camera.</p> <p>13 Q. That's a great tradition. Tell me about</p> <p>14 Double Decker.</p> <p>15 A. Double Decker is an arts and music festival</p> <p>16 that occurs every year on the square since I've lived</p> <p>17 in the community save 2020 due to COVID. But it's a</p> <p>18 vibrant time when the square gets shut down to</p> <p>19 vehicular traffic on all of the entrances in and</p> <p>20 artists set up booths, restaurateurs set up booths</p> <p>21 around the perimeter of the courthouse. And we'll get</p> <p>22 10s and 10s of thousands of people on the square.</p> <p>23 Q. Are the courthouse grounds closed off during</p> <p>24 Double Decker Festival?</p> <p>25 A. Absolutely not. They're the place where</p>
<p style="text-align: right;">Page 52</p> <p>1 Kevin Frye</p> <p>2 everybody sits to eat.</p> <p>3 Q. Do you know whether the Double Decker</p> <p>4 Festival is ever extended into the evening hours?</p> <p>5 A. Every year it extends into the evening</p> <p>6 hours. Usually the restaurants and booths shut down</p> <p>7 around 5 or 6 o'clock. Sometimes, if they run out of</p> <p>8 food or art to sell, earlier. But the concert portion</p> <p>9 of the festival continues on usually until 10 p.m.</p> <p>10 Q. Do you know whether the courthouse grounds</p> <p>11 have ever been shut down after dark during Double</p> <p>12 Decker Festival?</p> <p>13 A. No, not to my knowledge they have not been.</p> <p>14 Q. Are you familiar with the Yoknapatawpha --</p> <p>15 and I'm going to spell that, and somebody step in if I</p> <p>16 spell it incorrectly. Y-A-K-N-A-W -- let me look it</p> <p>17 up.</p> <p>18 MR. O'DONNELL: Oh, come on, Jack.</p> <p>19 THE WITNESS: I think it's Y-O.</p> <p>20 MR. WILLIAMS: See.</p> <p>21 THE WITNESS: I don't know how to spell it.</p> <p>22 MR. O'DONNELL: P-H-A; right?</p> <p>23 MR. WILLIAMS: I'll look it up real quickly</p> <p>24 so the record is clean.</p> <p>25 THE WITNESS: I know how to spell Yokna, but</p>	<p style="text-align: right;">Page 53</p> <p>1 Kevin Frye</p> <p>2 I don't know how to spell Yoknapatawpha.</p> <p>3 MR. O'DONNELL: You almost had it, Jack.</p> <p>4 MR. WILLIAMS: Ms. Isbell, are you ready?</p> <p>5 COURT REPORTER: Ready.</p> <p>6 MR. O'DONNELL: What's that?</p> <p>7 MR. WILLIAMS: I wanted to make certain our</p> <p>8 court reporter was ready.</p> <p>9 MR. O'DONNELL: Oh, okay.</p> <p>10 MR. WILLIAMS: It's capital</p> <p>11 Y-O-K-N-A-P-A-T-A-W-P-H-A.</p> <p>12 COURT REPORTER: Got it. Thank you.</p> <p>13 Q. Are you familiar with the Yoknapatawpha Arts</p> <p>14 Council, Kevin?</p> <p>15 A. Yes. Yes, I am familiar with the</p> <p>16 Yoknapatawpha Arts Council. I've served on the</p> <p>17 Theatre Oxford Board which is associated with YAC, and</p> <p>18 currently my wife serves as a Board member on the YAC</p> <p>19 Board.</p> <p>20 Q. So would you describe just generally what</p> <p>21 the Yoknapatawpha Arts Council is?</p> <p>22 A. It is a cultural and artistic nonprofit that</p> <p>23 supports, sponsors, and provides opportunity for</p> <p>24 artistic expression in our community that includes art</p> <p>25 and theater and music. They also provide</p>

<p style="text-align: right;">Page 54</p> <p>1 Kevin Frye</p> <p>2 programming -- a wide variety of programming for</p> <p>3 children. Our eldest son has attended art camp there</p> <p>4 regularly the last couple of years.</p> <p>5 So they're housed -- generally YAC is housed</p> <p>6 in the Powerhouse Building, which is just on the</p> <p>7 southeast quadrant as you leave the square.</p> <p>8 Q. About 5 or 5:30, if we were looking at our</p> <p>9 clock again?</p> <p>10 A. Yeah, 4:30 or 5, I'd say.</p> <p>11 Q. Are you familiar with the Fringe Festival?</p> <p>12 A. I am familiar with the Fringe Festival.</p> <p>13 I've never attended, but I do know of it, yes, sir.</p> <p>14 Q. What is the Fringe Festival?</p> <p>15 A. It is an alternative art festival that is</p> <p>16 sponsored by YAC.</p> <p>17 Q. Are you aware of any events that have taken</p> <p>18 place on the courthouse grounds as part of the Fringe</p> <p>19 Festival?</p> <p>20 A. Generally, yes. I would say that it has --</p> <p>21 you know, I think I recall some number of years ago</p> <p>22 that they did kind of all over the square area -- they</p> <p>23 did a variety of little booth-type things where you</p> <p>24 could rotate through. And I remember that because I</p> <p>25 was asked to participate, and I think I had to decline</p>	<p style="text-align: right;">Page 55</p> <p>1 Kevin Frye</p> <p>2 for some reason I don't recall. But beyond that,</p> <p>3 that's kind of my knowledge of the Fringe Festival in</p> <p>4 particular.</p> <p>5 Q. When you say "they," you mean the Arts</p> <p>6 Council?</p> <p>7 A. Yeah. Somebody that was helping to organize</p> <p>8 the festival. It's been some number of years ago, so</p> <p>9 I honestly don't remember that particularly.</p> <p>10 Q. Do you recall whether there was ever an</p> <p>11 event where images were projected onto the Circuit</p> <p>12 Courthouse building in the middle of the square as</p> <p>13 part of the Fringe Festival?</p> <p>14 A. I know of that. I was not there, but I do</p> <p>15 know of it, yes.</p> <p>16 Q. How do you know of it?</p> <p>17 A. Through conversations I've had and through</p> <p>18 reading about the festival in the news.</p> <p>19 Q. What is your understanding of it?</p> <p>20 A. Just that it was visual arts. It was an</p> <p>21 opportunity to showcase visual arts in a different</p> <p>22 way.</p> <p>23 Q. Do you recall with whom you spoke about the</p> <p>24 projections as part -- that were part of the Fringe</p> <p>25 Festival?</p>
<p style="text-align: right;">Page 56</p> <p>1 Kevin Frye</p> <p>2 A. I don't, no.</p> <p>3 Q. Do you recall whether you ever heard any</p> <p>4 criticism of the projections that were part of the</p> <p>5 Fringe Festival?</p> <p>6 A. I did not hear any criticism, no.</p> <p>7 Q. Do you know whether the square has ever</p> <p>8 played any role of Christmas in Oxford, Mississippi?</p> <p>9 A. Every year it plays a role in Christmas,</p> <p>10 yeah. Usually Santa will be available. I remember</p> <p>11 two years ago my eldest son being mortified of Santa</p> <p>12 on the north steps of the courthouse lawn. That's</p> <p>13 where Santa usually sets up there. There is a parade</p> <p>14 that happens that comes down North Lamar, goes around</p> <p>15 the courthouse, and has historically taken a right on</p> <p>16 University Avenue. I remember that specifically</p> <p>17 because it's usually on a Monday night, and it</p> <p>18 conflicted over the last few years with two of our</p> <p>19 Board of Supervisor's Board meetings that were on the</p> <p>20 first Monday of the month, I think, at 5. So I</p> <p>21 remember twice being in a Board meeting on the night</p> <p>22 of the parade.</p> <p>23 Q. Kevin, can you return back to Exhibit B-13?</p> <p>24 A. Sure.</p> <p>25 Q. And I may have the wrong photograph. Did</p>	<p style="text-align: right;">Page 57</p> <p>1 Kevin Frye</p> <p>2 you say that Santa was on the north side of the square</p> <p>3 or the south side of the square?</p> <p>4 A. On the north -- hold on. Let me rotate it</p> <p>5 here so I can make sure. Yeah, this is the location</p> <p>6 where Santa Claus is set up, on the north side of the</p> <p>7 square just in front of the steps to the courthouse</p> <p>8 there.</p> <p>9 Q. So tell me about that. Was it a 30-minute</p> <p>10 appearance? Was it an all-afternoon appearance? How</p> <p>11 did that work?</p> <p>12 A. Throughout the day they set it up. And I</p> <p>13 don't remember the exact times. But from 10 or 11 in</p> <p>14 the morning until later in the afternoon there's a</p> <p>15 line of parents and kids waiting to see Santa. They</p> <p>16 also do Easter, so the Easter Bunny is there, similar,</p> <p>17 same location.</p> <p>18 Q. Where on the courthouse grounds would Santa</p> <p>19 set up?</p> <p>20 A. Inside the -- on the grounds just directly</p> <p>21 in front of the north entrance. So right on the</p> <p>22 sidewalk in front of the entrance there where those</p> <p>23 three -- you can see the three archways. Right in</p> <p>24 front of that.</p> <p>25 Q. So scroll down to Exhibit B-14.</p>

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1 Kevin Frye

2 A. Yes. Right on the sidewalk that you see

3 near that bench, that first bench in the photograph.

4 That flat brick spot there is where Santa sets up.

5 Q. And where would parents and their children

6 line up?

7 A. All in this area in the grass and on the

8 sidewalks. Kids that age don't tend to stay in a

9 particular spot, Jack. They tend to run around. So

10 the whole lawn would be occupied, as I recall.

11 Q. You know what, I'm old enough to be glad

12 that my son doesn't run around like that anymore. But

13 I do recall that.

14 MR. O'DONNELL: That you know of.

15 MR. WILLIAMS: Well, I know he runs around,

16 but I'm no longer responsible for his well-being. At

17 least not primarily.

18 Q. Okay. So tell me about the Easter Bunny on

19 the courthouse grounds.

20 A. Yeah. Same location, same type of event.

21 Fun time. But just kids running around in this area

22 waiting to get their picture taken.

23 Q. And do I recall correctly -- did you say

24 this was usually on a weekend day?

25 A. Saturday, yes.

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1 Kevin Frye

2 A. No, they're not. Nor for the 4th of July

3 parade nor any of the other -- when the Humane Society

4 does its puppy walk, all of those times when there are

5 those events the courthouse lawn is used.

6 Q. Tell me about the 4th of July parade.

7 A. Similar. It's a parade that occurs around

8 the square and through town. Again, it's a community

9 parade that comes through the square. And I remember

10 participating -- I guess it would have been last year.

11 The parade started over near the District Attorney's

12 Office on the north side of City Hall in that parking

13 lot. People lined up in that area. The parade

14 started and went around -- in this picture we're

15 looking at -- 14 is what I'm still looking at -- came

16 around the north side of the courthouse and went

17 south. I remember particularly because we

18 participated -- I was running for Senate last year,

19 and we had quite a group of people, including my kids,

20 waving flags, et cetera. And the courthouse grounds

21 were packed while everybody threw candy, et cetera.

22 Q. And this was on the 4th of July of last

23 year?

24 A. Yes. And every year. But last year is what

25 I'm speaking more particularly of.

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1 Kevin Frye

2 Q. Now, you mentioned the Christmas parade a

3 moment ago. Tell me about the Christmas parade.

4 A. The Christmas parade is hosted by the City

5 of Oxford in coordination with local nonprofits

6 generally. It's a fun time. It's just a big parade

7 of floats and bands, et cetera, what you would

8 typically see in a community parade. It would start

9 up North Lamar, come south, go around this area. And

10 the courthouse grounds would be packed with people

11 watching the parade as it went by.

12 Q. How well attended is it usually? This year

13 is an exception, of course. But in the preceding four

14 or five years, how well has it been attended?

15 A. Very well attended. You have people lining

16 both sides of the street along the whole route, even

17 when it's particularly cold, as I recall.

18 Q. Just one person deep?

19 A. Oh, no. Multiple people. We're talking

20 about thousands of people. I don't know a count. But

21 the whole route a lot of people on the square, you

22 know. Traffic is stopped basically by so many people

23 at that time.

24 Q. Are the courthouse grounds roped off or

25 closed off during the Christmas parade?

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1 Kevin Frye

2 Q. Were there more than five people on the

3 courthouse grounds?

4 A. There were hundreds, yes.

5 Q. Now, you mentioned a puppy walk. Tell me

6 about that.

7 A. I forget the official name of it. It may

8 be -- the Humane Society does fundraisers, and one of

9 them is bring your dogs and you walk. And I remember

10 doing that because we used to bring our dogs before

11 they got old. And it would also start on the square

12 usually in front of Square Books, Jr. And there would

13 be utilizing of the square for a fundraiser for the

14 Humane Society.

15 Q. About how many people would participate in

16 the walk -- when I say the walk itself, actually

17 walking their dogs?

18 A. 100, give or take, depending on the year.

19 Q. Would people gather on the sidewalks to

20 observe and cheer them on?

21 A. Yes, they would. Not in the same amount

22 that you would see on the 4th of July or Christmas,

23 but yes.

24 Q. Do you recall whether the Episcopal Church

25 has ever had a Mardi Gras parade?

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 2 A. I do recall. I've participated in that.
 3 I'm a member of St. Peters and have served on the
 4 vestry there recently. And yes, the Mardi Gras parade
 5 starts in the St. Peters parking lot, comes up Van
 6 Buren around the courthouse, and then back to
 7 St. Peters on Jackson. So it's a short parade.
 8 Usually there's a small band that participates and
 9 plays, you know, some New Orleans-style music, jazz.
 10 And people watch, beads are thrown, and people stand
 11 along the route, including on the courthouse grounds,
 12 to catch beads and wave at the parade goers -- or the
 13 people in the parade.
 14 Q. Now, Van Buren is the street that girds the
 15 south side of the square; right?
 16 A. Right.
 17 Q. And so the parade originates on Van Buren,
 18 and they march from the church to the square and
 19 around the courthouse and then march back on the
 20 street that girds the north side of the square, which
 21 becomes Jackson Avenue; am I correct in that
 22 description?
 23 A. That's right. Yeah, it just another example
 24 of the square being the cultural center, you know.
 25 There are parades that happen. There was a Martin

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Kevin Frye

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 2 A. Yeah. I think it was on Martin Luther King
 3 Day last year, although I'd have to check my calendar
 4 to be certain. But it started at Second Baptist,
 5 which is a little beyond St. Peters on Jackson Avenue
 6 off the square. It came up to St. Peters, over to Van
 7 Buren, and around the courthouse, just like we
 8 described the route of the Mardi Gras parade, and then
 9 went back down Jackson to the Second Baptist Church.
 10 That's a walk I participated in last year.
 11 Q. And what is the Second Baptist Church?
 12 A. It's a historically black church that is
 13 located just off the square to the west on Jackson.
 14 Q. Can you estimate how many people
 15 participated in that march last year?
 16 A. 50 to 75, I would think.
 17 Q. And can you tell me about the event
 18 generally? Was it simply a march?
 19 A. It wasn't only a march. It included a
 20 march. It was in the morning. It was on a Saturday,
 21 and there was breakfast at Second Baptist. I took one
 22 of my boys. We had breakfast, then we did the march,
 23 and we were done before lunchtime. After the march
 24 there was some sort of program at Second Baptist. I
 25 did not participate in that because I had to take my

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Kevin Frye

1 Kevin Frye
 2 Luther King walk last year. There are a variety of
 3 things that happen where the square is the center of
 4 the community.
 5 Q. Do you recall approximately what time the
 6 Mardi Gras parade takes place?
 7 A. In the evening. It starts between 5 and 6.
 8 I can't remember the exact time. But it's after work
 9 hours. I know that because I've participated with our
 10 kids. And as soon as the parade is over, St. Peters
 11 does a pancake dinner inside. So by the time you're
 12 back, it's dinnertime.
 13 Q. Do people observe the parade?
 14 A. Absolutely, yes.
 15 Q. Why?
 16 A. It's fun. The community knows it happens.
 17 It happens every year. And a lot of people in our
 18 community are Mardi Gras supporters and enjoy getting
 19 out and being supportive of that. So there are always
 20 people along the walk.
 21 Q. Do you know whether people are on the
 22 courthouse grounds observing?
 23 A. Yes, there are people there.
 24 Q. Now, you mentioned a Martin Luther King walk
 25 a moment ago. Would you tell me about that?

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 2 kid home. But it was an event. It wasn't just a
 3 march.
 4 Q. How do you describe the mood of that event?
 5 A. Somber.
 6 Q. I'm going to shift backwards. I want to
 7 talk about Christmas one more time. What does the
 8 square look like at nighttime during Christmas?
 9 A. It's lit up like bright. There are lights
 10 strung from all the buildings around the square to the
 11 courthouse clock. There are lights strung around the
 12 tops of all the buildings on the courthouse. Those
 13 are all done by the City on top of whatever
 14 decorations are put up by the individual business
 15 owners.
 16 Q. They string -- lights are strung --
 17 A. To the top of the clock tower. It's a
 18 canopy of lights may be the best way to describe it.
 19 And I'm still looking at B-14, the picture I have
 20 pulled up. And if you look closely, you can actually
 21 see -- I can see two -- no, three strands of lights,
 22 one just directly above the tree that you see there,
 23 one over to the left part of the tree, and a third
 24 that you can see between the -- I think that's an oak
 25 tree there that I'm looking at, and the magnolia tree

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2 is on the left.

3 Q. So I'm looking at thin diagonal lines --

4 A. Right.

5 Q. -- in the blue field, the sky. Is that

6 what you are describing?

7 A. Yes, sir, that is.

8 Q. And what sort of lights are those?

9 A. They're white bulb LED lights.

10 Q. How long has this taken place that you know

11 of?

12 A. Well, there was a history of it taking place

13 years ago. I think this is -- it's either the third

14 or the fourth year in a row that they've done it, the

15 City. Robyn Tannehill, who's the current mayor, in

16 her first year -- which I think makes it -- this would

17 be the third year, I think, that it's done. It might

18 be four.

19 Q. Do you have any personal knowledge of how

20 this tradition was reinstituted three or four years

21 ago?

22 A. Yeah. I think a conversation happened

23 between Robyn and Jeff, and the question was: Does

24 the County have any objection to us tying these to the

25 top of the courthouse? And the answer was no. I

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1 Kevin Frye

2 A. I can comment on it based on that, yes. I

3 always -- you know, when my office was above My

4 Favorite Shoes, I lived basically right next to the

5 cemetery. So there was a time that I was on the

6 square regularly at a variety of different hours.

7 That's been some years ago now.

8 But yeah, the college kids come out in force

9 as the sun goes down and a little later than that.

10 Q. Do alumni ever come out in force?

11 A. Absolutely.

12 Q. And when would that be?

13 A. More dinnertime. But they stick around.

14 I've represented plenty of parents and alumni who find

15 their way to my office after a late night on the

16 square. So it's not just college kids that are out

17 late. They just tend to arrive later.

18 Q. What sort of events would cause alumni to be

19 there?

20 A. Oh, a whole variety of things, whether it's

21 Double Decker or a football game or a baseball game or

22 a basketball game or even other events on the square

23 or on campus like at the Ford Center, for example.

24 Q. Do you have an opinion as to whether the

25 square is safe when it's populated so at nighttime

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2 don't think we had a particular formal vote that I

3 recall on it.

4 Q. Now, when you say Jeff, who is Jeff?

5 A. Jeff Busby who is the Board president of the

6 Board of Supervisors the last four years, 2016 to

7 2019.

8 Q. I'm shifting gears on you again, Kevin.

9 Let's go to evenings on the square. And we spoke that

10 sometimes it's crowded for a variety of reasons. Tell

11 me generally about college students' presence on the

12 square in the evenings?

13 A. Well, when school is in session, there are

14 always college kids all over town, the square

15 included. I would say that -- if you're thinking

16 about when the bulk of college students make their way

17 to the square, it's usually later in the evening.

18 Q. "Later" is relative. I've started going to

19 bed at 8 o'clock every night.

20 A. Yeah. I'm usually in bed at 9:15, but I

21 think that's about when they start arriving on the

22 square generally.

23 MR. O'DONNELL: This is pure speculation.

24 Q. Would you be able to comment on that based

25 upon your representation of clients in criminal court?

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1 Kevin Frye

2 with students and/or alumni?

3 A. It's safe, yes. It always has been.

4 Q. And what do you base that opinion on?

5 A. I base that opinion on my personal

6 experience and I base that opinion on my law practice.

7 As many people as I've represented, it's never been --

8 I'd have to sit and think hard. But off the top of my

9 head, I can't think of any safety issues that have

10 brought people to my office.

11 Q. Do people come to your office for

12 alcohol-related issues?

13 A. Sure, yeah. Public drunks and minors in

14 possession and DUIs, those kind of things. So I

15 suppose you could say it's a safety element. But I

16 guess my point is I've never had people in my office

17 because -- you know, or a business hire me because

18 they were broken into or somebody got run over on the

19 square or anything like that.

20 Q. What about violent confrontations?

21 A. Oh, there are fights, bar fights that happen

22 and such, yes. But that's a pretty rare occurrence,

23 relatively speaking.

24 Q. Do you have an opinion as to the

25 effectiveness of law enforcement on the square during

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1 Kevin Frye
 2 evenings when it's crowded?
 3 A. My opinion is that they're an overbearing
 4 presence in the evening when it's crowded. We have
 5 for a number of years had a horse patrol. So on
 6 particularly crowded nights, there are at least four
 7 officers on horseback. There's a dedicated square
 8 detail with officers who are on foot on the square.
 9 The square is covered by cameras which feed directly
 10 live video to dispatch at the Oxford Police
 11 Department. So there's really -- there's a lot of
 12 people there generally going about having a good time.
 13 But it's not a particularly dangerous environment at
 14 all.
 15 Q. Do I recall that you said that there was a
 16 dedicated square patrol or unit?
 17 A. Yeah. That was created, I'm going to guess
 18 here, about three to five years ago. I can't remember
 19 exactly when they dedicated it. But they dedicated a
 20 particular unit to be on the square at night.
 21 Q. Do you know how many officers are in that
 22 unit?
 23 A. Two to four that are on foot and patrol,
 24 dedicated to that specifically. As opposed to, you
 25 know, riding in a car where they can maybe not be on

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1 Kevin Frye
 2 the south side of the courthouse.
 3 Q. Hold on just a second and I'll see if I can
 4 find a photo that gets us --
 5 A. Somewhere in the 4:30 range on your dial.
 6 Q. So if you look at Exhibit B-3, approximately
 7 where is Hinton & Hinton?
 8 A. You see this white car that's on the left
 9 edge of the picture? It's right in front of there,
 10 basically. Somewhere in that area. It's hard to tell
 11 because of the tree leaves, but right in that area.
 12 Q. When you say the "left edge," do you mean
 13 the very far left?
 14 A. I do, yeah.
 15 Q. Okay. And so tell me about that camera.
 16 What do you know about the camera that's located in
 17 the vicinity of Hinton & Hinton?
 18 A. I just know that the County had a camera
 19 installed that faces that area.
 20 Q. Now, Hinton & Hinton is spelled H-I-N-T-O-N;
 21 correct?
 22 A. Correct.
 23 Q. Now, what does it face? What does this
 24 camera face?
 25 A. The south side of the courthouse including

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1 Kevin Frye
 2 the square, they instituted a foot patrol, sometimes
 3 on bikes.
 4 Q. And you mentioned cameras on the square.
 5 How do you know about that?
 6 A. Well, I've had occasion to ask for video for
 7 clients that I've represented over the years. I know
 8 where they are. I remember when the City installed
 9 them. Just as part of my work I know about them.
 10 Q. So where are they on the square?
 11 A. All over the place. But if you look up,
 12 you'll see them on light poles mostly kind of covering
 13 all of the visible areas on the square, the alleys,
 14 the center of the square. There's one outside the
 15 parking lot at my office. If I walk up there, you can
 16 see it right now.
 17 Q. Do you know whether the courthouse grounds
 18 are monitored by this camera system?
 19 A. They are, yes.
 20 Q. And tell me about that.
 21 A. Well, I know that the City's system monitors
 22 the entirety of the square. And I also know that this
 23 year there's a new camera that's been installed --
 24 Q. Where is that new camera?
 25 A. It's over near Hinton & Hinton that faces

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1 Kevin Frye
 2 the monument.
 3 Q. And how do you know about this?
 4 A. I saw it there and I had a conversation
 5 about it.
 6 Q. With whom did you speak?
 7 A. Jeff Busby.
 8 Q. And what did Mr. Busby tell you?
 9 A. That that was a new camera installed by the
 10 County and that the Sheriff can monitor it from his
 11 cell phone.
 12 Q. Do you know whether the Sheriff's Office
 13 regularly has personnel, deputies, patrolling the
 14 square?
 15 A. Patrolling the square? No. I mean
 16 generally they don't have deputies patrolling the
 17 square. During the daytime there are regularly
 18 deputies in the Circuit Court building when court
 19 business is happening. But there's not a patrol per
 20 se unless you want to count the deputies at Lindsey's
 21 Chevron a lit bit to the north when they're there for
 22 breakfast or lunch. It's not a patrol per se.
 23 Q. What about at nighttime?
 24 A. No more than -- no. I mean the City
 25 generally patrols the square, not the Sheriff's

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1 Kevin Frye

2 Department. But it is in close proximity to the jail,

3 and it's a hub for vehicular traffic. So yeah, I mean

4 there's circulation through that area. But I think

5 there's a difference between coming through there and

6 patrolling it, if that's what you're asking.

7 Q. Do you know whether the City police respond

8 to incidents that take place on the courthouse

9 grounds?

10 A. Absolutely they do.

11 Q. What about in the evening?

12 A. Absolutely. It's part of their square

13 patrol. Yes. The City -- I would suggest that the

14 square is -- not suggest -- I know that the square is

15 the most heavily protected part of our community, for

16 sure.

17 Q. And how do you know that?

18 A. Well, because my office has been on the

19 square since 2007, and I've represented people in our

20 community that have interacted with law enforcement

21 since that time. And I promise you that the square is

22 the most heavily patrolled and secure place in our

23 community. There's no doubt about it.

24 Q. I'm getting ready to shift gears on you

25 again. You were a supervisor for four years; correct?

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1 Kevin Frye

2 Q. What about the courthouse grounds?

3 A. The grounds of the courthouse, no. In the

4 courthouse itself there are panic buttons that were

5 installed during the remodel that I mentioned earlier

6 in 2007 that would directly summon a deputy if you

7 pushed the button. There's one actually in the

8 judge's chambers that people tend to bump their head

9 into. So they've been summoned a few times by

10 accident.

11 But no. As far as outside the building, it

12 was not something that we were ever that concerned

13 with, no.

14 Q. Do you recall whether anybody from the

15 Oxford Police Department ever came to the supervisors

16 while you were a supervisor expressing concern about

17 the safety of individuals on the courthouse grounds in

18 the evening?

19 A. No, no one ever came and spoke to us from

20 the Oxford Police Department.

21 Q. Do you know what sunshine laws are?

22 A. Generally, yes.

23 Q. And what's your general understanding of

24 what they are?

25 A. Just that the government should be open and

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1 Kevin Frye

2 A. That's right.

3 Q. And you mentioned earlier that safety is

4 part of the jurisdiction, for lack of a better word,

5 of the supervisors. That's something over which they

6 exercise control. Will you elaborate on that a little

7 bit?

8 MR. O'DONNELL: Object to the form.

9 A. So health, safety and welfare is kind of the

10 big picture authority that supervisors have within the

11 County where they are. That's broad, but it includes

12 just -- it includes the budget for the Sheriff's

13 Department, it includes the budget for other parts of

14 County government that deal with safety of people,

15 whether that's, you know, safety for building codes,

16 for example, or sanitation, keeping things cleaned up.

17 It's a broad mandate that supervisors have.

18 Q. Were the supervisors concerned about the

19 safety of citizens and visitors on the square?

20 A. Are you speaking in general or are you

21 speaking about specific times?

22 Q. Well, in general right now. Because I just

23 want to establish whether they were or were not.

24 A. No. In general the square was not something

25 we concerned ourselves with.

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1 Kevin Frye

2 accountable to the public.

3 Q. Are there any sunshine laws that govern the

4 manner in which County supervisors conduct business

5 that you know of?

6 A. Yes. Just, you know, the public business

7 happens in the public. It's the Open Meetings Act, if

8 that's what you're referring to.

9 Q. And how do supervisors -- how are they

10 supposed to ensure that they follow the law?

11 A. In regards to what?

12 Q. Well, what --

13 A. In regards to open meetings? Is that what

14 you mean?

15 Q. Well, how do supervisors document their

16 deliberation on matters that are part of their agenda?

17 Let me rephrase that. How are they supposed

18 to document their deliberation on matters that are

19 part of their agenda?

20 A. The formal actions of the Board are

21 reflected in the minutes of the Board.

22 Q. Are there any requirements on how they

23 communicate with one another when they're not meeting

24 as a board when the deliberation or the discussion

25 concerns County business?

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1 Kevin Frye

2 A. Yes. You're not supposed to do that. You

3 certainly can't meet as a majority, you can't have a

4 majority of the Board together to discuss business

5 that's not in a public meeting.

6 Q. Do supervisors ever rely upon email to

7 address County business?

8 A. Sure we would get emails about County

9 business from the County administrator or others from

10 time to time, absolutely, yes.

11 Q. And is there a business email address or a

12 personal address that's used?

13 A. It's different for different supervisors. I

14 used a County email address. I think my address was

15 kfrye@lafayettecoms.com. I specifically asked for a

16 County email address and so did David Rikard. The two

17 of us were new to the Board four or five years ago

18 now. I think the other three supervisors used

19 personal email addresses which they had been using

20 going back to the term before and they were on their

21 second term.

22 Q. And when you say the other supervisors, who

23 were those supervisors?

24 A. Chad McLarty, Mike Roberts, and Jeff Busby.

25 Q. Were matters ever discussed via text

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1 Kevin Frye

2 wasn't on the text chain. I do have a sense, but no,

3 not in particular.

4 Q. When you say you "do have a sense," what

5 does that mean?

6 A. I believe that the other four supervisors

7 had a text chain among themselves that I was not a

8 part of, and I believe that --

9 Q. Why do you believe that?

10 A. Once or twice I would get messages in the

11 group that was among the six of us, the County

12 administrator and the five of us, that I think pretty

13 clearly were accidentally sent to the one that

14 included me as opposed to the one that didn't.

15 Q. Okay. So let's make certain that I'm on the

16 same page as you. When you say "the six of us," that

17 means the five County supervisors and Lisa, the County

18 administrator; correct?

19 A. Correct, correct.

20 Q. And when you say that you received messages

21 that you may have been mistakenly included on, what

22 sort of messages would those have been?

23 A. I can't frankly recall the specific message.

24 But I can recall thinking: I don't think they

25 intended for me to see that.

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1 Kevin Frye

2 message?

3 A. Yes.

4 Q. And how do you know that?

5 A. Well, there were text messages that went

6 around. You know, most of the time -- I'll give you

7 an example. We would get a message from Lisa, the

8 County administrator: Don't forget that the law

9 enforcement memorial event is whatever day, next

10 Tuesday at noon, on the courthouse grounds. Things

11 like that.

12 Q. When you say Lisa -- because I don't know

13 that I can pronounce Lisa's last name --

14 A. Carwyle.

15 Q. -- and I cannot spell it. Will you help me

16 with that?

17 A. Carwyle, C-A-R-W-Y-L-E.

18 Q. That sounds like just an administrative

19 reminder.

20 A. Right.

21 Q. Do you know whether substance was ever

22 discussed by supervisors via text?

23 A. Not with me.

24 Q. Do you know about other supervisors?

25 A. No. I mean if it wasn't with me, then I

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1 Kevin Frye

2 Q. Do you recall generally what it concerned or

3 may have concerned?

4 A. No, I really don't. I don't. I just

5 remember that and thinking it was a little bit

6 frustrating. But no, I don't remember the message.

7 If you have on your messages and you have all these

8 text chains, you can find the one that you're

9 intending to send to. But at the top if there's a

10 circle and it's got a bunch of names, you may forget

11 to look and see whose on there when you're responding

12 to a number of people. And that's my sense of what

13 happened a couple of times.

14 Q. Why was it frustrating?

15 A. Two reasons really. One is that I believe

16 and always have believed that the County should and

17 ought to be doing all of its business in the public,

18 and that's not something that ever caused me any

19 grief. I think that's just the way things ought to

20 be. So it's frustrating if I perceived that that's

21 not what's happening and also frustrating to perceive

22 that at times there were conversations happening to

23 decide -- maybe "decide" is not the right word to

24 use -- but to think through an issue privately rather

25 than publicly.

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1 Kevin Frye

2 Q. Do you have any belief as to why you would

3 have been excluded?

4 A. It's not often that you have a lawyer on the

5 Board of Supervisors. And I made it pretty clear that

6 -- I just made it pretty clear that I wanted to follow

7 the right path on how we did business.

8 Q. And how did you make that clear?

9 A. Lots of different ways. Lots of different

10 ways. But by stating it that way. And, you know, I

11 think, maybe anecdotally to tell you, I think the very

12 first meeting that we ever had when I was on the

13 Board, I can vividly recall Sherry Wall, who is our

14 clerk, mouthing to the person sitting next to her:

15 "Why does he ask so many questions" about me.

16 And the point being that there was a pretty

17 dramatic shift in the way we did business. Meetings

18 that I would attend while running for supervisor and

19 observing would regularly last five minutes, 10

20 minutes, 20 minutes, very short, sweet, to the point.

21 And then when I got on the Board, our meetings

22 regularly lasted quite a bit longer because there was

23 a lot of conversation in the board room, which was not

24 typical, at least historically typical.

25 Q. What was historically typical based on what

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1 Kevin Frye

2 A. That's a good question.

3 Q. Do you have an opinion?

4 A. You know, I think a lot of times -- it

5 depends on the issue. But often people have their

6 minds made up before we got there or, you know,

7 sometimes hadn't even looked at the documents of what

8 we were reviewing or whatever we were supposed to be

9 voting on, so made their mind up on the fly. Not all

10 the time, you know. There were certainly times we did

11 have good discussion. But there were times that I

12 think people had their mind made up one way or the

13 other. And I'm not sure that that's -- if you present

14 me with something to vote on, I may make my mind up

15 before we get to the meeting based on my review of the

16 issue.

17 Q. Did anyone express frustration with you for

18 requiring discussion?

19 A. Sure, yeah.

20 Q. Do you recall generally who that would be?

21 A. Oh, it depends on the issue. From time to

22 time it could have been any one of them at times,

23 depending on what the issue was.

24 Q. Okay. Let me take a minute -- I'm getting

25 ready to shift gears just a little bit, and I'm going

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1 Kevin Frye

2 you observed while you were running for supervisor?

3 A. In and out as fast as possible.

4 Q. And you said that's different from when you

5 joined or when you were elected and became a member of

6 the Board. How did it differ?

7 A. We just had a lot more discussion because I

8 kind of forced it a lot of the time.

9 Q. When you say you "kind of forced it," what

10 does that mean?

11 A. Well, I just would ask questions. And, you

12 know, I wanted to hear a report from this department

13 or I wanted to hear a report from that department or I

14 wanted to discuss what this issue is and what that

15 issue is. So, you know, there was a general, regular

16 frustration from a couple of the Board members who,

17 you know, wanted to get in and out of there as fast as

18 possible regardless of what was on the agenda. And

19 that was not my -- we didn't have the same -- we

20 didn't have the same view of what the meetings were

21 for. My view is they were for thinking through things

22 and having open debate, and their view was for getting

23 in and out as quick as possible.

24 Q. How would matters be decided if there wasn't

25 discussion or debate?

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1 Kevin Frye

2 to -- let's see.

3 At some point the Confederate monument --

4 and I'm just going to -- when I say Confederate

5 monument, I mean the statue that is in front of the

6 courthouse that we see in Exhibit B-3. We see the

7 rear view of it. At some point that became of issue

8 when you were a supervisor; is that correct?

9 A. That's correct.

10 Q. I'm going to put -- I hope I've got this

11 correct -- Exhibit C in the chat box. And it's

12 uploading right now. I show that it's sent.

13 A. Yeah, I've got it.

14 (EXHIBIT C, EMAIL TO LISA CARWYLE FROM

15 CARSON OTTER, 8/15/2017 -- FORWARDED TO

16 SUPERVISORS, WAS MARKED FOR

17 IDENTIFICATION.)

18 Q. Now I have to find it again. Some ways this

19 is easier and some ways it's not.

20 Tell me what this is?

21 A. This is an email from County Administrator

22 Lisa Carwyle to the supervisors. And it is a forward

23 of what, I guess, is a -- there's a contact form on

24 the County's website, or there was at the time, that

25 somebody put in a message that she forwarded to us.

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1 Kevin Frye

2 And the message was about the monument.

3 Q. So Lisa was the County -- was she the

4 administrator then?

5 A. That's right.

6 Q. And "To Supervisors," is that how y'all

7 normally received messages from her?

8 A. Yeah. Within the County's email system, it

9 was set up in such a way that if you just typed

10 "supervisor," it would go to all five of us.

11 Q. Now, Mr. O'Donnell is copied. I want to

12 make certain that we do not intrude on the County's

13 attorney/client privilege or anything that relates to

14 things considered in executive session.

15 But this is dated October 15, 2017. What

16 was happening then that would have occurred for this

17 email to come to y'all's attention?

18 A. August 15th. I can't remember the timing of

19 the Charlottesville incident. Maybe somebody will

20 remind me. But it was shortly after that, as I

21 recall.

22 Q. Did this become an issue with the Board of

23 Supervisors?

24 A. Yes.

25 Q. There's a statement in here where the writer

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1 Kevin Frye

2 Q. Do you recall his expressing why it was fine

3 where it was in his estimation?

4 A. It didn't offend him.

5 Q. Did he ever express an opinion as to the

6 demands that the monument be contextualized?

7 A. Well, we as a group voted. And as I recall,

8 I think it was either five to nothing or four to one

9 to form a committee to contextualize it. So there

10 was -- you know, that was after much pushing from my

11 end for sure that we ought to entertain that.

12 But when later we got language back proposed

13 to contextualize it, it was clear at that point there

14 was no support for actually following through.

15 Q. I will pull that up in a little bit. We'll

16 visit it soon.

17 Do you recall whether -- let me back up.

18 Do you recall whether Mr. Roberts expressed

19 an opinion as to the supporters of moving the

20 monument?

21 A. Yes. The general sense was if you just

22 ignore it, they'll go away.

23 Q. When you say "they," who is they?

24 A. The people asking for it to be

25 contextualized or moved. It was basically a

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1 Kevin Frye

2 notes that the statue has a narrative upon it that

3 states, open quote: "They gave their lives in a just

4 and holy cause." Close quote. And the writer seeks

5 clarification on the meaning of that.

6 Did the Board of Supervisors ever discuss

7 that, to your knowledge?

8 A. Yes.

9 Q. And do you recall what individual

10 supervisors stated about that?

11 A. Not word for word, no.

12 Q. Well, generally speaking, what was your

13 impression -- and let me -- Mike Roberts was on the

14 Board then; right or wrong?

15 A. Correct.

16 Q. What was your impression of his

17 understanding as to what a "just and holy cause" was?

18 A. Well, I can't say what I think his -- I

19 don't know what he said his impression was. I do know

20 that when it comes to moving or contextualizing the

21 monument, he wasn't really interested in either of

22 those.

23 Q. Did he express why he was not interested in

24 either of those?

25 A. The monument is fine where it is.

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1 Kevin Frye

2 wait-them-out strategy.

3 Q. Okay. And Chad McLarty was a supervisor

4 then; right or wrong?

5 A. Correct.

6 Q. And do you have an impression as to -- do

7 you have an impression as to whether he believed it

8 was reasonable to contextualize the monument?

9 A. Absolutely not. He did not believe it was

10 reasonable.

11 Q. And what do you base that upon?

12 A. He was the most firm of the group that he

13 was for maintaining the status quo as it was.

14 Q. When you say "he was the most firm," what do

15 you mean?

16 A. He never entertained any other option.

17 Q. Did he express why he would not entertain

18 any other option?

19 A. It's fine just like it is, status quo. I

20 think the sense among all of these guys is it's been

21 there my whole life, I've lived here my whole life,

22 it's not hurting me, let's just leave it like it is.

23 I have a different perspective.

24 Q. Same question for Mr. Rikard.

25 A. Rikard.

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1 Kevin Frye

2 Q. Rikard, R-I-K-A-R-D; correct?

3 A. Right.

4 Q. Same question for Mr. Rikard.

5 A. Yeah, same. He in particular seemed less

6 familiar maybe with the history and more skeptical

7 of -- more skeptical of the idea that it was hurtful

8 to anybody or even the idea that -- the idea that the

9 war was fought over slavery was something he wasn't

10 really willing to even recognize.

11 Q. So let's back up on that. When you say

12 Mr. Rikard -- and correct me if I'm mischaracterizing

13 what you said -- that he was the least --

14 A. I'll tell you I remember when we got

15 language back from the contextualization committee,

16 those gentlemen that had been asked to write language,

17 that in particular he said: I don't even know if this

18 language is accurate. He questioned the historians'

19 perspective on what they suggested should go on the

20 monument, not based on any research or specific

21 inquiry that he made, just based on his general sense

22 of things, I guess, is the best way to put it.

23 Q. I'm going to -- before I move on, do you

24 recall any of your fellow supervisors explaining what

25 they believed "a just and holy cause" is?

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1 Kevin Frye

2 MCLARTY, KEVIN FRYE, JEFF BUSBY, DAVID

3 RIKARD, AND DAVID O'DONNELL FROM LISA

4 CARWYLE, 8/17/2017 WAS MARKED FOR

5 IDENTIFICATION.)

6 MR. WILLIAMS: It says that it's been sent

7 successfully.

8 Q. Can you tell me what Exhibit D is?

9 A. This is another email from Lisa to the five

10 of us and David O'Donnell, which was a link to the

11 University's contextualization documentation for their

12 monument on campus.

13 Q. Lisa being the County administrator?

14 A. Correct.

15 Q. And the five of y'all being County

16 supervisors?

17 A. Correct.

18 MR. WILLIAMS: Okay. I'm getting ready to

19 load Exhibit F.

20 COURT REPORTER: Are we skipping E?

21 MR. WILLIAMS: For the moment.

22 (EXHIBIT F, EMAIL TO JEFF BUSBY FROM JEFFREY

23 VITTER, 9/5/2017, FORWARDED TO SUPERVISORS,

24 WAS MARKED FOR IDENTIFICATION.)

25 Q. And Exhibit F should be loaded.

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1 Kevin Frye

2 A. No. I do know we had that conversation. I

3 remember going back and forth about it. And I do also

4 know that Jeff Busby in particular recognized how

5 problematic that language was. We talked about how

6 even all these other statues around the country don't

7 have language, most of them, that are similar to that.

8 And so there was a recognition among the group that

9 that particular phrasing was pretty problematic.

10 Q. When you say there was a recognition that it

11 was problematic, how was it problematic?

12 A. Just that the perspective of different

13 people in the community was different than the

14 language on the monument. I think, frankly, even for

15 me, before this time period, August of '17, maybe a

16 month before that -- I can't remember the exact

17 timing -- but I don't think I ever stopped to read the

18 language on the monument until it became an issue,

19 even going back to when I worked in that building or

20 the many dozens and hundreds of times I walked past

21 it, you know. But once you read it, you can't unread

22 it, I think, is the way I see it.

23 MR. WILLIAMS: I'm going to load a new

24 exhibit. This will be Exhibit D.

25 (EXHIBIT D, EMAIL TO MIKE ROBERTS, CHAD

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1 Kevin Frye

2 A. Okay.

3 Q. What is Exhibit F?

4 A. This is an email from Jeff Busby to the

5 Board and Lisa with -- he was forwarding an email from

6 Jeffrey Vitter, who was the chancellor of the

7 University at the time, with a link to some remarks

8 that were made at a 2017 faculty meeting on campus.

9 Q. Lisa, again, is the County administrator at

10 this point; correct?

11 A. Correct.

12 Q. I interrupted you. Go on.

13 A. Well, Chancellor Vitter was providing

14 specifically to Jeff, and he forwarded to us, some

15 information where he addressed Charlottesville, what

16 had happened, and put it in the context of the faculty

17 relating to the University's monument and the

18 contextualization that they were going through on

19 campus.

20 Q. And Chancellor Vitter -- and that's

21 V-I-T-T-E-R, Vitter -- did he ever speak directly to

22 the Board?

23 A. No.

24 Q. Do you recall whether the supervisors ever

25 discussed the comments or the speech that he linked to

<p>Page 94</p> <p>1 Kevin Frye</p> <p>2 in this email?</p> <p>3 A. We discussed contextualization generally,</p> <p>4 but I don't recall specifics related to this. I know</p> <p>5 I read it, but I don't remember us talking about his</p> <p>6 email in particular.</p> <p>7 Q. So what was happening at the University of</p> <p>8 Mississippi then that would have given Chancellor</p> <p>9 Vitter the opportunity to share this with the</p> <p>10 supervisors?</p> <p>11 A. They had been for a while on a path towards</p> <p>12 contextualizing the monument that they had in the</p> <p>13 Circle at that time. I know that they initially</p> <p>14 placed one plaque and then came back and did another</p> <p>15 one. And I can't remember the exact timing of where</p> <p>16 they were in that process here.</p> <p>17 But just generally speaking, they were ahead</p> <p>18 of where we were in the sense that they had already</p> <p>19 been thinking and dealing with, you know, the context</p> <p>20 of this monument on campus in 2017 at the time. And</p> <p>21 one of the people that we ultimately put on -- I say</p> <p>22 "we" -- that was put onto the contextualization</p> <p>23 committee had served in this similar capacity on</p> <p>24 campus.</p> <p>25 Q. When you say "this monument on campus,"</p>	<p>Page 95</p> <p>1 Kevin Frye</p> <p>2 describe the monument, please.</p> <p>3 A. Yeah. It's a Confederate monument that was</p> <p>4 previously located in the Circle. It has now been</p> <p>5 moved to the Confederate cemetery on campus, but it is</p> <p>6 a very similar monument to the one on the square.</p> <p>7 Q. When you say "the Circle," where was that</p> <p>8 located?</p> <p>9 A. The Circle is a generally known place on</p> <p>10 campus near the Grove. It's at the end -- it's</p> <p>11 basically in the dead end of University Avenue.</p> <p>12 MR. WILLIAMS: Okay. Now we're going back</p> <p>13 to Exhibit E.</p> <p>14 (EXHIBIT E, EMAIL TO KEVIN FRYE FROM</p> <p>15 LAFAYETTE COUNTY BOARD OF SUPERVISORS,</p> <p>16 9/1/2017 - MEETING AGENDA, WAS MARKED</p> <p>17 FOR IDENTIFICATION.)</p> <p>18 Q. And it should be uploaded.</p> <p>19 A. This is a notification that goes out to</p> <p>20 anybody that subscribed to the emails of the County</p> <p>21 for our agendas. This is a notification of our agenda</p> <p>22 for our September 5th, 2017 meeting, which includes as</p> <p>23 agenda item number 6 a discussion regarding the status</p> <p>24 of the Confederate memorial statue and related</p> <p>25 options.</p>
<p>Page 96</p> <p>1 Kevin Frye</p> <p>2 Q. Now, I realize this was 2017, so over three</p> <p>3 years ago. Do you recall generally the discussion</p> <p>4 that occurred then.</p> <p>5 A. Yes, I do. If I recall -- I guess it would</p> <p>6 help me just to look at a news article from that week.</p> <p>7 But we had a meeting and we held it not in our regular</p> <p>8 board room but in the larger courtroom to accommodate</p> <p>9 for what we anticipated would be a larger group of</p> <p>10 people.</p> <p>11 Q. Was this a public meeting?</p> <p>12 A. It was, yes. This was our regular Board</p> <p>13 meeting.</p> <p>14 Q. Okay.</p> <p>15 A. In fact, I believe this is the night that</p> <p>16 that happened.</p> <p>17 Q. And what do you recall happened?</p> <p>18 A. We had some people come and speak to us, you</p> <p>19 know, on ostensibly both sides of the issue, people</p> <p>20 who were encouraging us to consider either</p> <p>21 contextualizing or removing the monument and others</p> <p>22 who were encouraging us to do nothing as relates to</p> <p>23 it.</p> <p>24 Q. Do you recall any of the speakers?</p> <p>25 A. Yeah, I do. Effie Burt spoke. I remember</p>	<p>Page 97</p> <p>1 Kevin Frye</p> <p>2 that she spoke. I remember Danny Toma, I think is his</p> <p>3 name, spoke.</p> <p>4 Q. Is that T-O-M-A?</p> <p>5 A. Probably, yes. There are others. There was</p> <p>6 a woman -- I'm not going to be able to think of her</p> <p>7 name -- but in the emails I provided to you. She was</p> <p>8 in those emails and included in that email a copy of</p> <p>9 what she said to us at that time. I just can't recall</p> <p>10 her name off the top of my head.</p> <p>11 Yeah, I mean I remember the meeting and</p> <p>12 generally what happened. I do not remember everybody</p> <p>13 that spoke off the top of my head.</p> <p>14 Q. So Ms. Burt -- and that's B-U-R-T, I</p> <p>15 believe.</p> <p>16 A. That's right.</p> <p>17 Q. -- would have favor of contextualization; is</p> <p>18 that correct?</p> <p>19 A. Correct.</p> <p>20 Q. And the woman you spoke of who later sent</p> <p>21 her speech to the Board in an email, she spoke in</p> <p>22 favor of contextualization; is that correct?</p> <p>23 A. Correct.</p> <p>24 Q. What about Mr. Toma?</p> <p>25 A. He was opposed to us doing anything as it</p>

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1 Kevin Frye

2 relates to the monument.

3 Q. So who is Mr. Toma?

4 A. A local who holds himself out as a historian

5 of the Civil War in particular, I think.

6 Q. Do you know the basis upon which he holds

7 himself out as a historian on the Civil War?

8 A. The best I can tell, self -- that's what he

9 says. I've never really inquired into his background

10 or his academic background, no. So I don't know. But

11 my understanding is it's his kind of personal interest

12 and history of study.

13 Q. Do you recall anyone else who spoke out

14 against contextualization or moving this Confederate

15 monument?

16 A. Off the top of my head, like I said, no. I

17 think if you were to jog my memory with a news report

18 that told me the names of people, I would probably

19 remember more.

20 Q. Do you recall whether Johnny Morgan ever

21 spoke?

22 A. He did not speak to us at that time. I know

23 he spoke this year about it. But I don't recall him

24 speaking previously, no.

25 Q. And do you recall the discussion that took

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1 Kevin Frye

2 unanimous to form a study committee.

3 Q. Okay. And this was forwarded to all of the

4 supervisors?

5 A. Yes.

6 Q. And it was forwarded -- or it was

7 transmitted by a representative of the County?

8 A. Yeah. Well, we would get an agenda packet

9 before every meeting that would include what was on

10 the agenda usually on Friday afternoon before the

11 Monday meeting.

12 Q. And so can you tell who sent this particular

13 agenda to you?

14 A. Well, this was sent by email from Margaret

15 Bankston who was the comptroller is who would send the

16 agenda out. But we would also get from Lisa a packet

17 of information that didn't go out in a public meeting,

18 that went to the five supervisors. And each of us had

19 -- I had an iPad that was a County iPad that all of

20 the supporting documents from whatever was on the

21 agenda would get uploaded so we could review them

22 before the meeting.

23 Q. Are those supporting documents public

24 records?

25 A. They should be, yes. They're not displayed

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1 Kevin Frye

2 place on the record after those presentations?

3 A. I think just a general statement of thank

4 you for speaking to us, we'll take it under

5 consideration.

6 MR. WILLIAMS: I'm going to upload

7 Exhibit G.

8 (EXHIBIT G, EMAIL TO KEVIN FRYE FROM

9 LAFAYETTE COUNTY BOARD OF SUPERVISORS,

10 10/13/2017 - MEETING AGENDA, WAS MARKED

11 FOR IDENTIFICATION.)

12 Q. And it should be uploaded at this point.

13 A. I've got it.

14 Q. Okay. So what is this?

15 A. This is a notice of our agenda for our

16 October 16th, 8 a.m., Board meeting, which would have

17 been a couple of meetings later. And item number 6 on

18 the agenda was to consider appointing a

19 contextualization study group for the Confederate

20 memorial statue.

21 Q. Do you recall any of the particulars of that

22 consideration that took place on the record?

23 A. We voted to form a committee. I can't

24 remember if it was all five of us or if Chad voted

25 against it at the time. I think maybe it was

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1 Kevin Frye

2 during the meeting. But yeah, they're public records

3 as a part of our agenda packet.

4 Q. And what generally would go in an agenda

5 packet?

6 A. Just whatever was on the agenda. So just as

7 an example, if it was a Planning Commission item, it

8 would include drawings and plans and submission for

9 whatever it is we were voting on. If it was a budget

10 item, it would include the dollars and cents of what

11 we were voting on. You know, just whatever supporting

12 documentation was necessary for study before voting.

13 MR. WILLIAMS: I'm uploading Exhibit H.

14 (EXHIBIT H, EMAIL TO SUPERVISORS AND DAVID

15 O'CONNELL FROM LISA CARWYLE, 10/18/2017,

16 WAS MARKED FOR IDENTIFICATION.)

17 A. Okay.

18 Q. What is this?

19 A. This is an email from Lisa Carwyle, the

20 County administrator, to the five supervisors and

21 David O'Donnell referencing the study group, the

22 contextualization study group that met in her office.

23 She was giving us an update.

24 Q. And in the second sentence it identifies the

25 members of the contextualization committee. Do you

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1 Kevin Frye

2 know those individuals?

3 A. I do. Lee Robinson, David Sansing, Will

4 Lewis, Jr., Chris Bush -- who I do not know -- and

5 Brian Wilson -- who I also do not know.

6 Q. So who is Lee Robinson?

7 A. He's a pastor.

8 Q. Of what church?

9 A. I think Second Baptist maybe. I might be

10 wrong on that.

11 Q. And who is David Sansing?

12 A. A historian who had been involved with the

13 University's contextualization project.

14 Q. Do you know whether he was employed with the

15 University?

16 A. He was.

17 Q. And what was his position, if you know?

18 A. He was in the history department, but I

19 don't know his exact position.

20 Q. Do you know whether he had any area of

21 expertise?

22 A. Yeah. In the Civil War in particular, I

23 think.

24 Q. Who is Will Lewis, Jr.?

25 A. Will Lewis is a local owner of Neilson's and

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1 Kevin Frye

2 Actually, my recollection is that the first I knew who

3 was on the committee was when I got this particular

4 email.

5 Q. Why did you feel that more consideration

6 would be given to the report of the people on the

7 committee if you forewent an opportunity to appoint

8 someone to the committee?

9 A. Well, if they get to pick who to listen to,

10 I would hope that they would be more inclined to

11 listen to them than somebody I would pick is why. And

12 that was based on my experience in choosing people for

13 various committees in 2016 and up until this point in

14 2017 while being on the Board.

15 Q. What was that experience?

16 A. Just that everybody has their -- everybody

17 has their network and people that they're more apt to

18 find credible. And if somebody is not in your

19 network, you may just be skeptical of them for that

20 reason alone. And I didn't want to -- I was really

21 careful in making sure in my mind that whoever they

22 picked would be somebody they would be willing to

23 listen to. So I frankly don't know who chose who or

24 if one person chose all five of these. Again, it

25 wasn't -- we voted to form a committee, but you'll

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1 Kevin Frye

2 a well-thought-of member of the community.

3 Q. And Neilson's is the store we identified

4 earlier as being the oldest department store in the

5 South?

6 A. Correct.

7 Q. Did this study group ever address the Board?

8 A. They did not.

9 Q. Do you know why they didn't?

10 A. Well, I don't know that they were ever asked

11 to address the Board. I did not ask that they address

12 the Board. They did provide us with some proposed

13 language. I think they even revised it when asked.

14 I actually think this is a fairly

15 interesting moment. You know, there were five people

16 appointed to this committee. Typically what would

17 happen in choosing who to appoint to a committee is

18 each supervisor would pick somebody. I specifically

19 did not choose any of these people and I specifically

20 said why don't you guys choose people that you will be

21 willing to listen to. Because I knew that it was

22 going to be important for them to have some

23 willingness to listen to people that were willing to

24 put some time and energy and effort into this issue.

25 So I didn't have a hand in picking these people.

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1 Kevin Frye

2 notice the agenda item didn't have names of people.

3 And like I said, the first I knew who they were was

4 when I got this email.

5 MR. WILLIAMS: So I've uploaded -- I believe

6 I've uploaded Exhibit I.

7 (EXHIBIT I, EMAIL TO SUPERVISORS AND DAVID

8 O'CONNELL FROM LISA CARWYLE, 11/1/2017,

9 WITH ATTACHED WORDING WAS MARKED FOR

10 IDENTIFICATION.)

11 A. Okay. Yeah, I've got it.

12 Q. So what is Exhibit I?

13 A. This is an email from Lisa Carwyle, the

14 County administrator, to the five supervisors and

15 David O'Donnell with wording -- this is apparently the

16 fourth draft of a document with wording for

17 contextualizing the monument on the square.

18 Q. Did you receive the preceding three drafts

19 during this process?

20 A. My recollection is we saw -- I saw one draft

21 before that. But no, I did not see all of them.

22 Q. Do you have any knowledge as to why the

23 revisions occurred?

24 A. Because certain other supervisors were

25 uncomfortable with the language as proposed, wanted to

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1 Kevin Frye

2 tone it down.

3 Q. When you say "tone it down," what does that

4 mean?

5 A. Well, certainly none of them want to be

6 offended by the idea that that monument might be there

7 for any reason that's supportive of slavery. They

8 didn't want to be offended by that or potentially

9 offend anybody else or get any blowback that the

10 language was offensive. That was the main sense I

11 got.

12 Q. When you say "be offended by it" -- and

13 let's take each segment individually. When you say

14 "they might be offended by it," how would -- and they

15 being the other supervisors -- how would those

16 supervisors have been offended?

17 A. Well --

18 MR. O'DONNELL: I'll interject an objection

19 here about speculation. If you're going to ask the

20 witness to speculate, that's fine. But I want the

21 record to be clear about whether he's doing that or

22 not.

23 A. Yeah. I specifically recall David Rikard

24 saying "I don't believe this language" and having, you

25 know, just read through it and it didn't comport with

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1 Kevin Frye

2 causes you to say that?

3 A. Well, other than when we -- other than when

4 we gave everybody a County trash can and made them use

5 it, I can't remember us getting as many emails as we

6 did around this particular issue.

7 Q. I know it's irrelevant, but tell me about

8 the trash cans.

9 A. Well, you've got to pay for it and you can

10 only have one. And if your trash doesn't fit, you've

11 got to pay for another one. And we rolled it out -- I

12 can't remember if it was the week of Thanksgiving or

13 the week of Christmas. But in retrospect, it was a

14 bad week to choose. Because everybody had a whole

15 heck of a lot of trash, and we just left a lot of it

16 there because it was not in the trash can. And this

17 engendered some pretty frustrated residents. So a lot

18 of emails. That's what I remember.

19 Q. So getting back to Exhibit I, is this the

20 last version of the contextualization -- suggested

21 contextualization language that was considered by the

22 Board?

23 A. It is.

24 MR. WILLIAMS: Okay. This is a good chance,

25 a good time to take another short break. I'm getting

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1 Kevin Frye

2 his view or whatever, you know, his view of history.

3 And he basically said: "How do I know this is right?"

4 That was his basic statement. But I think in that

5 sense that kind of spoke for a couple of other ones,

6 too, a couple of other Board members.

7 Q. Did anybody suggest that David Sansing be

8 allowed to come and speak to the supervisors?

9 A. Not to my recollection. Nobody wanted to

10 deal with it at this point, Jack.

11 Q. Why do you say nobody wanted to deal with

12 it? What causes you to believe that?

13 A. If you don't bring it up, it will go away.

14 And that's in fact what happened. It did happen.

15 Until this year, you know.

16 Q. Earlier you mentioned "blowback." What do

17 you mean by "blowback"?

18 A. Politicians don't like to be criticized.

19 And in particular local supervisors don't want to go

20 out into the community and be asked questions by their

21 friends from years past or people that they see at

22 church about why they did one thing or another. And

23 this is a particularly high-profile issue in the

24 community.

25 Q. When you say this is high profile, what

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1 Kevin Frye

2 ready to shift gears into one last area of inquiry.

3 David, Josh, will y'all remind me is the

4 general agreement that we have up to four hours with a

5 witness?

6 MR. O'DONNELL: There's no agreement, Jack.

7 You can take as long as you need to. But I'm

8 sensitive to the fact Kevin is a practicing

9 attorney.

10 THE WITNESS: I have a hard 2 o'clock stop.

11 MR. WILLIAMS: I only have one last area,

12 and I'm just trying to allocate my time appropriately.

13 We're not going to go anywhere near 2 o'clock.

14 THE WITNESS: I hope not, but thank you.

15 MR. WILLIAMS: Okay. Let's take five

16 minutes.

17 THE VIDEOGRAPHER: We'll go off record. The

18 time is 12 noon.

19 (A RECESS WAS TAKEN.)

20 THE VIDEOGRAPHER: We're back on record.

21 The time is 12:09.

22 BY MR. WILLIAMS:

23 Q. Kevin, I've uploaded Exhibit J into the chat

24 box. If you haven't opened it, will you open it?

25 A. I have it.

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1 Kevin Frye
2 (EXHIBIT J, EMAIL TO SUPERVISORS, DAVID
3 O'CONNELL, AND JOHN HILL FROM LISA CARWYLE,
4 2/26/2019, WITH ATTACHED FACILITY USE
5 POLICY, WAS MARKED FOR IDENTIFICATION)
6 Q. Okay. And would you tell me what this is?
7 A. This is an email from Lisa Carwyle, the
8 County administrator, to the five supervisors and
9 David O'Donnell, the County attorney, and John Hill,
10 who was the acting Sheriff at this time, as I recall.
11 And this is a proposed draft of a Facility Use Policy
12 she was circulating to us to review.
13 MR. O'DONNELL: What's the date on that,
14 Kevin?
15 THE WITNESS: It's dated February 26th,
16 2019.
17 Q. And what was the occasion for revising the
18 Facility Use Policy?
19 A. We -- in this time period there was a
20 protest that happened on campus. Well, I don't know
21 how best to put it. There were protestors that were
22 attempting or wanting to come to Oxford, and we knew
23 they were coming, people from outside of town to
24 protest around the monument and to march from the
25 monument on the square to the University. This all

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1 Kevin Frye
2 And in order to protect the safety of the community,
3 we want to make sure that if you're going to come and
4 you're going to have a protest, you can't carry a gun
5 or a sword or something that was going to be overly
6 dangerous. So that's where this use change came
7 about, this Facility Use Policy change.
8 Q. So if you turn to page 4 of the policy,
9 there's some red-lined material under signs and then
10 other items.
11 A. Right.
12 Q. Is that the language that addresses the
13 concerns about weapons and things that could be used
14 as weapons?
15 A. Yes, it is. There's this language "don't
16 use an open flame," which is the response to carrying
17 of torches in Charlottesville. That's where all this
18 came from. And I think -- my recollection is that
19 Lisa took a lot of it from the City of Oxford's policy
20 that they had recently revised as well.
21 Q. Do you recall whether the County spoke
22 directly with the City of Oxford about adopting usage
23 policies or did Ms. Carwyle simply crib from the
24 City's policy?
25 A. I did not have a conversation with the City

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1 Kevin Frye
2 coincided with some of our basketball players, it may
3 have even been the same day as this march, taking a
4 knee on the basketball court at the pavilion during
5 the national anthem. For dates, I can't recall all
6 of them. But that's something that is easily found
7 in the sports pages if you want to go look for it.
8 And so, too, would be the march that I'm talking
9 about. It was reported widely in the local news here
10 as well.
11 Q. Do you recall who suggested that a revision
12 should occur?
13 A. No. I didn't suggest it. But there was a
14 pretty clear sense -- you know, in leading up to that
15 march, there was a conversation about security.
16 Obviously what had happened in Charlottesville was on
17 people's minds. Also on some people's minds was -- I
18 can't remember -- some proceeding before this. There
19 was a gentleman named Matthew Reardon who decided to
20 hoist himself up at the monument grounds with an AK-47
21 or some such that was causing -- you know, he was kind
22 of doing it on his own but causing a little bit of
23 ruckus on the square related to that.
24 So there was a sense of we have people who
25 are coming, who are likely to bring weapons with them.

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1 Kevin Frye
2 nor did the City come to a Board meeting and have a
3 conversation with the Board as a whole. But Lisa's
4 history was she was the City of Oxford's administrator
5 before coming to the County in January of 2016. So I
6 would not think it out of the question that she would
7 have reached out to get some information from them or
8 at least a copy of the policy.
9 Q. Do you recall why she came to the County
10 from the City?
11 A. Absolutely.
12 Q. And why was that?
13 A. Because Jeff Busby, Mike Roberts, and Chad
14 McLarty decided to fire the previous County
15 administrator and hire her after the election in 2015
16 and before David Rikard and I took office in January
17 of 2016. That's why.
18 Q. Who was the prior County administrator?
19 A. Jeff Johnson -- Joseph Johnson. I'm sorry.
20 Joseph.
21 Q. Joseph Johnson. Do you know why they
22 decided to fire Joseph Johnson?
23 A. Generally I think that he had underperformed
24 in their eyes as County administrator while they were
25 in office from 20 -- what would that be -- '12, '13,

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1 Kevin Frye

2 '14, '15, that time frame.

3 Q. Do you have an opinion as to whether he had

4 underperformed?

5 A. I was just a citizen, and I didn't have the

6 opportunity to interact with him that much. No. I

7 mean I heard some stories about things that he had not

8 been as attentive to as he could have been. But

9 that's stories I heard anecdotally. Lisa does a great

10 job, so I'm not criticizing that.

11 Q. If you look on that same page that's page 3

12 of 4 -- well, I'm sorry. It's the preceding page,

13 page 3 of 4.

14 A. Yes.

15 Q. There's a section entitled Applications For

16 Usage.

17 A. Uh-huh (positive response).

18 Q. Did the Board of Supervisors discuss the

19 length of time for which an application must be

20 submitted?

21 A. Well, the first I knew of this policy being

22 revised was when I got this email. So if you're

23 asking whether we discussed it ahead of time, the

24 answer is I did not. I think in general the sense was

25 that if we could prevent people from driving in from

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1 Kevin Frye

2 of 2019. Do you recall the names of any of those

3 out-of-town protestors, either individually or groups

4 with which they might be affiliated?

5 A. There was a Confederate 901 group which, I

6 think, was -- I think that's the name of it, Memphis

7 area related. There were some people from Arkansas.

8 There was a Flagger group, and I don't remember the

9 name of that. But yeah, at the time we were aware of

10 and knew who some of these people were, and they were

11 known to --

12 Q. When you say Flagger -- when you say

13 Flagger, is that F-L-A-G-G-E-R?

14 A. Right. As in Confederate Flagger. I think

15 that was the name of their group. Maybe that was

16 colloquial, but yes.

17 Q. How did y'all come to know of their

18 machinations?

19 A. There was conversation between, as I recall

20 it, the FBI and the City of Oxford Police Department

21 related to that. And they monitor social media

22 traffic for certain things. And again, it was not

23 just an issue for the County. It was an issue for the

24 City. It was an issue for the University and the

25 athletics team. This was a community-wide issue that

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2 out of town, carrying torches and guns, then it would

3 be nice for us to be able to do that. I think that

4 that was the general sense, is that it would be nice

5 not to have that in town if we could avoid it.

6 Q. Do you recall discussing the 30-day advance

7 provision?

8 A. No, not particularly, no.

9 Q. Do you know why 30 days was selected?

10 A. I don't. It's a long time. That's why

11 probably.

12 Q. Why would a long time matter?

13 A. Well, you know, again, there were what I

14 think were legitimate concerns about protestors who

15 were signaling through social media, through

16 conversations on social media that they weren't just

17 going to come and have a nice peaceful protest but

18 they were going to bring with them what the whole

19 country had seen in Charlottesville turn into a

20 problematic rally. And so I think there were

21 legitimate concerns about that. And in particular,

22 the fact that people from out of town would not be

23 necessarily as respectful of our community as we might

24 wish them to be probably.

25 Q. I know that this is going back to February

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2 everybody was paying pretty close attention to.

3 Q. Was it your impression that the City was

4 responsible in how they were handling the issue?

5 A. Yes.

6 Q. Was it your impression that the City

7 responsibly adopted safety measures to address this

8 issue?

9 MR. O'DONNELL: Object to the form. Go

10 ahead.

11 A. Yes. And there was cooperation between the

12 City and the University to help designate the path of

13 the march, to hand off law enforcement activity

14 between off campus and on campus and how all that was

15 going to go. There was a lot of conversation to make

16 sure on the front end that it was safe.

17 Q. So let me drill down into that a little bit.

18 Why do you believe the City was responsible in

19 addressing the safety issues with their policies?

20 A. Why do I -- you mean the policies they

21 adopted in particular? Well, there weren't any issues

22 that occurred. Everything happened safely. So I

23 think retrospectively, that's one clue.

24 But on the other hand, it just was

25 something everybody was paying attention to on the

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2 front end.

3 Q. Do you have an opinion as to whether the

4 University was responsible in adopting safety policies

5 in response to this threat of -- I'm going to use

6 outside agitators just for lack of a better word, the

7 Flaggers and Confederate 901 and similar

8 organizations.

9 MR. O'DONNELL: Object to the form.

10 A. Yes. I think, again, it was handled well.

11 I'm sure that there are various perspectives of who

12 should have done what, where, when and why. And I

13 think that my recollection is that the City asked to

14 be reimbursed for some of their security services, and

15 they perceived the University as responsible for

16 paying for some of it. But beyond that, I think

17 everybody worked well together.

18 Q. And why do you think that the University was

19 responsible? And I know that you addressed that

20 shortly a moment ago, but I want to make certain that

21 I haven't led you into a --

22 A. No. I think everything went well. The

23 march happened. It was fine. My recollection is I

24 was at the pavilion before the basketball game while

25 it happened. And so I don't think I even -- other

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1 Kevin Frye

2 MR. WILLIAMS: Well, we may disagree as to

3 the extent of the privilege insofar as the County's

4 deliberations on materials are concerned. But I agree

5 with you, there's no need to hash that out here. And

6 I'm not going to ask any questions beyond this email.

7 So I'm comfortable with that stipulation. I just want

8 to make certain that I make it clear that at some

9 point down the road we may have to discuss the extent

10 to which County deliberations are covered by an

11 attorney/client privilege.

12 MR. O'DONNELL: Okay. I understand. And I

13 agree, we're not going to argue about it. But just to

14 be clear, can we stipulate -- can we agree that me not

15 instructing the witness not to answer the question and

16 allowing him to answer your questions in this

17 deposition would not be used by the plaintiff in an

18 argument that we waived the attorney/client privilege?

19 MR. WILLIAMS: We can agree to that. I'll

20 be glad to stipulate to that.

21 MR. O'DONNELL: Okay. Very good.

22 MR. WILLIAMS: Okay.

23 Q. So --

24 A. Can I begin by saying I wouldn't have

25 produced this if I thought it was privileged. That's

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1 Kevin Frye

2 than reading about it and seeing pictures afterwards.

3 It seemed like everything went fine.

4 MR. WILLIAMS: Okay. I am going to load

5 Exhibit K.

6 (EXHIBIT K, EMAILS RE MAKER'S MARKET,

7 2/26//2019 WAS MARKED FOR IDENTIFICATION.)

8 Q. It should be up.

9 A. Yeah, I see it.

10 Q. And what is this?

11 A. This is my response on Tuesday, February

12 26th, to Lisa, the County administrator, the other

13 supervisors, and David, and then Lisa's response to

14 me. So she sent out the proposed Facility Use Policy.

15 Like I said earlier, that's the first time I had seen

16 it. And I responded quickly, you know, within 20

17 minutes of her sending it with a couple of questions

18 that I had.

19 MR. O'DONNELL: Jack, let me interject at

20 this point. This is technically an attorney/client

21 communication. But I'm willing to waive it just for

22 the purposes of examining Kevin on this email if we

23 can have that agreement that that examination won't

24 constitute a waiver of the attorney/client privilege

25 beyond your examination of Kevin on this email.

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2 my position, not that it matters. But go ahead.

3 Q. If there are privileged -- if there are

4 materials that you withheld that you believe were

5 privileged -- which I understand why you'd do that --

6 would you make certain that David has them so that

7 they can go into the privilege log?

8 A. Yes. There are no documents that I thought

9 were privileged. But yes, thank you for asking.

10 Q. So what prompted this email?

11 A. Well, I just was -- I read the policy, and I

12 had a couple of questions related to it. That's the

13 answer. You know, I knew, completely unrelated, I

14 think, to the use of the courthouse for a protest, the

15 Maker's Market that has routinely occurred on the

16 courthouse lawn is a Yoknapatawpha Arts

17 Council-sponsored event where local artists put booths

18 up on the courthouse lawn Saturdays once or twice a

19 month and sell goods that they have made. The Maker's

20 Market, that's why it's named that. And I was aware

21 that certain supervisors perceived that as competition

22 for other businesses on the square who were paying

23 rent and were looking for ways to prevent the Maker's

24 Market from happening at all, which I strongly

25 disagreed with. Which is really what prompted me to

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2 ask those questions in particular.

3 Q. So that relates to item number 6 on the

4 first page under Quick Glance?

5 A. Yes.

6 Q. What was the resolution of that?

7 A. Well, as Lisa said, I think: Well, that's

8 been our rule for a while, but I just let them keep

9 using it.

10 Before this I had never read the County's

11 policy on use of the courthouse grounds, you know. It

12 had never come up before. So this was my first

13 reading of the policy. And, you know, as she said,

14 you know, if you look at it, the language that I was

15 asking about was not in red, so it wasn't anything new

16 that she was proposing to us. But nonetheless, that

17 was my concern.

18 Q. You also mention the Easter Bunny and Santa

19 Claus, which we talked about those earlier. What was

20 your understanding of how this use policy would

21 impact those uses?

22 A. Well, my point was: Let's not impact those

23 uses. And I think that that was the general sense

24 after discussion, that there was no intent to impact

25 those uses.

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2 would rather just not have that argument.

3 Q. Did y'all discuss how discretion would be

4 exercised as to whether the courthouse grounds could

5 be used for an event?

6 A. Well, the County administrator was the one

7 that received the applications and signed off on them.

8 So yes, she had the discretion to do so. We did

9 not -- if somebody wanted to use the courthouse

10 grounds, it's not something that we voted on.

11 Q. Was she provided any guidance beyond the

12 policies identified in the attachment to Exhibit J?

13 A. Not from the Board as a whole. We never sat

14 her down and said here's your guidance. You know, I

15 do think that kind of the function of the president of

16 the Board of Supervisors is to interact on a more

17 regular basis with the County administrator. So

18 whether this conversation happened between her and

19 Jeff, I don't know. But no, the Board as a whole did

20 not sit down and say here's how we anticipate you

21 exercising discretion. But it was clear that we

22 weren't going to get rid of the Maker's Market while I

23 was on the Board even if others felt differently. And

24 I think that it was one of those we'll just agree not

25 to argue about it right now kind of things. Kind of

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1 Kevin Frye

2 Q. So why would -- what was the discussion?

3 Why do you understand that?

4 A. Well, because everybody likes Easter bunnies

5 and Santa, Jack, so of course nobody would prevent

6 them from being on the square. People don't like

7 Confederate Flaggers or people who may want their

8 monument moved. You know, that's a different issue

9 than Santa and the Easter Bunny.

10 Q. Okay. Did y'all discuss that as the

11 supervisors?

12 A. The language of the policy? Yeah. I mean I

13 am certain that I brought it up and said: I'm okay

14 with some of these changes, but I'm not okay with

15 getting rid of Maker's Market. I made that clear to

16 all of them. They knew how I felt about that.

17 Q. And did y'all discuss about whether it would

18 apply to the Easter Bunny and Santa?

19 A. I mean beyond this email, I think there was

20 an agreement that it wouldn't. But again, they all

21 got this email. So if you're saying did we discuss it

22 beyond that, I think we did. So we all knew where we

23 stood.

24 But my recollection is that basically nobody

25 wanted to argue with me about those points, that they

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2 like Lisa saying the policy says they're not supposed

3 to be there, but I'm going to keep letting them do it.

4 Q. Was the Sheriff's role in permitting or not

5 permitting use of County facilities discussed by the

6 Board of Supervisors?

7 A. No.

8 MR. WILLIAMS: Okay. If y'all will let me

9 take about five, maybe 10 minutes to speak with Josh

10 to make certain that I haven't left any loose ends

11 dangling. But I think we'll be able to wrap up

12 shortly. Is that fair?

13 MR. O'DONNELL: That's fine, Jack.

14 MR. WILLIAMS: Pardon?

15 MR. O'DONNELL: Yes, that's fine.

16 MR. WILLIAMS: Okay.

17 THE VIDEOGRAPHER: So we're going off

18 record. The time is 12:34.

19 (A RECESS WAS TAKEN.)

20 THE VIDEOGRAPHER: We're back on record.

21 The time is 12:42.

22 BY MR. WILLIAMS:

23 Q. Kevin, I'm going to move into, just very

24 quickly, an area after your time on the Board. But

25 your experience may shed light on this both as a

<p style="text-align: right;">Page 126</p> <p>1 Kevin Frye</p> <p>2 supervisor and as someone who's familiar with</p> <p>3 after-dark safety on the square.</p> <p>4 Are you familiar with the curfew that the</p> <p>5 Board of Supervisors has enacted limiting access to</p> <p>6 the courthouse grounds after dusk?</p> <p>7 A. I am.</p> <p>8 Q. And what's your understanding of that</p> <p>9 policy?</p> <p>10 A. My opinion is it's preposterous. But my</p> <p>11 understanding is that it's dusk to dawn.</p> <p>12 Q. Why do you say your opinion is that it's</p> <p>13 preposterous?</p> <p>14 A. I don't think there's any doubt that -- it's</p> <p>15 one thing to create a policy because you're concerned</p> <p>16 rightfully about people marching, carrying weapons,</p> <p>17 and being potentially violent. It's another thing</p> <p>18 entirely to create a policy to limit criticism. And</p> <p>19 that's what I think was done this year.</p> <p>20 Q. When you say "a policy to limit criticism,"</p> <p>21 what do you mean?</p> <p>22 A. Well, if you think about what was going</p> <p>23 on -- I don't know the date of when they passed it.</p> <p>24 But if you just think -- they were in a bunker, the</p> <p>25 supervisors as a whole, all five of them. And they</p>	<p style="text-align: right;">Page 127</p> <p>1 Kevin Frye</p> <p>2 were there because the community was up in arms,</p> <p>3 rightfully but peacefully. They were showing up to</p> <p>4 Board meetings with dozens and a couple of times 100,</p> <p>5 give or take, protestors silently standing outside</p> <p>6 their board room. And they wanted people to -- they</p> <p>7 wanted it to go away. And I think it's quite as</p> <p>8 simple as that.</p> <p>9 Q. So when you say --</p> <p>10 A. Consistent with when I was on the Board,</p> <p>11 which was: Just don't talk about it, it will go away.</p> <p>12 That was their mindset in conversations with me, and I</p> <p>13 see nothing to suggest that that has changed.</p> <p>14 Q. When you say "they were in a bunker," what</p> <p>15 do you mean by "in a bunker"?</p> <p>16 A. Just feeling, you know, an onslaught from</p> <p>17 people who rightfully were questioning what they were</p> <p>18 going to do about this statue on the square.</p> <p>19 Q. So do you have an opinion as to whether the</p> <p>20 curfew was enacted to limit criticism?</p> <p>21 A. 100 percent. If there was a desire and a</p> <p>22 need to secure the courthouse grounds because of</p> <p>23 safety, it could have been done any time before this,</p> <p>24 at times when the 901 group was coming, at times when</p> <p>25 policies were revised. Rather than create a square</p>
<p style="text-align: right;">Page 128</p> <p>1 Kevin Frye</p> <p>2 detail of Oxford police to monitor the square, they</p> <p>3 could have shut down some of the square. But that's</p> <p>4 never what was chosen. You know, the idea has always</p> <p>5 been to make it more open and more accessible because</p> <p>6 it's the heartbeat of our community.</p> <p>7 Q. When you say "more open and more</p> <p>8 accessible," how do you mean more open and more</p> <p>9 accessible?</p> <p>10 A. To make people feel safe on the square so</p> <p>11 that they will come and be here and be available to</p> <p>12 shop and to eat in the restaurants and to use the</p> <p>13 square for what its purpose is, and that's to generate</p> <p>14 goodwill and good feelings and revenue for the</p> <p>15 community. It's the economic lifeblood and kind of</p> <p>16 the cultural lifeblood. And, you know, really I think</p> <p>17 that to say it's culturally significant probably</p> <p>18 touches at the main meat of the issue. I can say more</p> <p>19 about that, I suppose.</p> <p>20 Q. When you say "it is culturally significant,"</p> <p>21 what do you mean by "it"?</p> <p>22 A. Well, I think the square as a whole is</p> <p>23 culturally significant. But for some people the</p> <p>24 memorial, the monument on the square, is significant</p> <p>25 to them. What I would often hear from other</p>	<p style="text-align: right;">Page 129</p> <p>1 Kevin Frye</p> <p>2 supervisors, from the sitting Sheriff, and others is:</p> <p>3 That's been there my whole life, I remember sitting</p> <p>4 around the base of it when I was in elementary school,</p> <p>5 it never hurt me. Why should we move it? We drank</p> <p>6 beer around it whenever we were in high school. You</p> <p>7 know, those kinds of conversations, reminiscing</p> <p>8 positively about what is on the square.</p> <p>9 And I didn't grow up here. I came here for</p> <p>10 law school, and I had a different perspective that's</p> <p>11 been formed by the experiences I had while on the</p> <p>12 Board of Supervisors around that particular issue.</p> <p>13 To put a finer point on it, Jack -- I'm</p> <p>14 going to keep going. I see that you're trying to form</p> <p>15 a question. But just specifically, during the time</p> <p>16 period of all this happening and during the time</p> <p>17 period I was on the Board was also when at Second</p> <p>18 Baptist Church there was a ceremony for a lynching</p> <p>19 memorialization to remember for the family of somebody</p> <p>20 who was lynched in this community. Higginbotham was</p> <p>21 his name.</p> <p>22 Q. H-I-G-G-I-N-B-O-T-H-A-M?</p> <p>23 A. That's right. And all of this happened kind</p> <p>24 of in the same time period and while I was on the</p> <p>25 Board. And when that memorialization ceremony</p>

<p style="text-align: right;">Page 130</p> <p>1 Kevin Frye</p> <p>2 happened, a request was made that one of the five of</p> <p>3 us speak. It generally fell to the Board president to</p> <p>4 speak at stuff. I think it was always kind of his</p> <p>5 option to decline. But over the course of four years,</p> <p>6 we rotated around those things. I spoke on the 4th of</p> <p>7 July on campus a couple of times. I think primarily</p> <p>8 everybody else was at the lake more than anything.</p> <p>9 But, you know, nobody wanted to speak at the</p> <p>10 lynching memorialization ceremony. It fell directly</p> <p>11 to me. I was the only one that -- I don't think the</p> <p>12 other guys entertained it at all. But what was</p> <p>13 interesting to me -- you know, I sat at this desk</p> <p>14 where I'm sitting right now and thought: What am I</p> <p>15 going to say? What am I going to say? And I wasn't</p> <p>16 just a member of the Board of Supervisors at the time,</p> <p>17 I was also the president of the Lafayette County Bar</p> <p>18 Association, the legal organization for the County.</p> <p>19 And so as I learned about what happened and as I</p> <p>20 learned about this particular incident of lynching,</p> <p>21 what I learned was that this man was on trial in that</p> <p>22 courthouse in the custody and care of the Circuit</p> <p>23 Court, the judge, the sheriff, the bailiff, all these</p> <p>24 people, my contemporaries that I work with today and</p> <p>25 have worked with since 2007. And to imagine that</p>	<p style="text-align: right;">Page 131</p> <p>1 Kevin Frye</p> <p>2 somebody that I represent or somebody who's on trial</p> <p>3 in our courthouse today would be removed by fellow</p> <p>4 citizens and carried up the street and hung with no --</p> <p>5 and nobody was ever punished for that, nobody was ever</p> <p>6 prosecuted for that. And the idea that all of the</p> <p>7 people of political leadership in this community would</p> <p>8 have either participated or passively allowed it to</p> <p>9 happen, it just really impacted me to think about --</p> <p>10 that's not the way I see our justice system</p> <p>11 functioning today. It's not the way we believe in</p> <p>12 this community today.</p> <p>13 And it just really impacted me. And it gave</p> <p>14 me an opportunity to kind of think about an issue that</p> <p>15 I had never thought about before really. I never</p> <p>16 heard of James Meredith when I came to law school</p> <p>17 here. I didn't know the history of the University of</p> <p>18 Mississippi. It wasn't relevant to me. I just wanted</p> <p>19 to go to law school. Who would have thought that you</p> <p>20 fast-forward 12 years and I'm sitting in an elected</p> <p>21 office and president of the Bar Association. I didn't</p> <p>22 think that, but that's where I found myself.</p> <p>23 And that's what's disappointed me the most</p> <p>24 about this whole conversation, the fact that the other</p> <p>25 members of the Board who were there with me and who</p>
<p style="text-align: right;">Page 132</p> <p>1 Kevin Frye</p> <p>2 are there currently are unwilling to look outside of</p> <p>3 their own experience and think about how other</p> <p>4 people's lived experience really is different in this</p> <p>5 community and to not even really be willing to</p> <p>6 meaningfully engage in dialogue. You can come talk to</p> <p>7 us for 30 minutes for one side and 30 minutes for the</p> <p>8 other side and that's all we need to talk about.</p> <p>9 That's not how leadership should behave.</p> <p>10 The other difficult issue that we dealt with</p> <p>11 when I was on the Board was zoning. We had almost 50</p> <p>12 public meetings. We talked about it for 18 months ad</p> <p>13 nauseum to get to the right solution for our</p> <p>14 community. And yet here we have another difficult</p> <p>15 issue, and everybody's reaction is: We can all -- in</p> <p>16 30 minutes we can arrive at a conclusion. It's just</p> <p>17 willful blindness to the issue is what I think.</p> <p>18 MR. O'DONNELL: What was the question, Jack?</p> <p>19 Q. Kevin, do you have an opinion as to whether</p> <p>20 the courthouse grounds are unsafe after dusk?</p> <p>21 A. I have never felt unsafe on the courthouse</p> <p>22 grounds after dusk nor do I know anybody who has.</p> <p>23 Q. Have you ever been on the courthouse grounds</p> <p>24 after dusk?</p> <p>25 A. More times that I can count.</p>	<p style="text-align: right;">Page 133</p> <p>1 Kevin Frye</p> <p>2 Q. In what capacity?</p> <p>3 A. Oh, a variety, whether it's there for</p> <p>4 official business in court after hours, whether it's</p> <p>5 there for a political meeting or a meeting of the ins</p> <p>6 of court that happens in the courtroom, whether I'm</p> <p>7 just walking through the grounds when I used to have</p> <p>8 a Great Dane that would come to my law office on the</p> <p>9 square and we would walk through the square at night</p> <p>10 on the way home, you know. It was never an issue.</p> <p>11 Q. Have you ever known of vandalism that</p> <p>12 occurred on the courthouse after dark?</p> <p>13 A. No. It's the most highly visible building</p> <p>14 in our community. It's not dangerous.</p> <p>15 Q. When you say "it's the most highly visible</p> <p>16 building in the community," why is that?</p> <p>17 A. Because every business on the square faces</p> <p>18 it on all four sides. Two of the main arteries for</p> <p>19 traffic circle the building. So there are constantly</p> <p>20 people passing by. Again, the idea that it's</p> <p>21 dangerous is preposterous. It's dangerous for ideas</p> <p>22 that may disagree with yours, but it's not dangerous</p> <p>23 for anybody's safety. It's not.</p> <p>24 Q. Do you have an opinion as to whether ideas</p> <p>25 that are supposedly dangerous figure into whether a</p>

<p style="text-align: right;">Page 134</p> <p>1 Kevin Frye</p> <p>2 permit is granted to use the courthouse grounds?</p> <p>3 A. I think that's -- if Scott Mills had not</p> <p>4 been told we're going to project anti-Confederate art</p> <p>5 on the wall, do you think the policy would have been</p> <p>6 changed?</p> <p>7 Q. You've done this before. Who gets to ask</p> <p>8 the questions?</p> <p>9 A. Well, I know. I know I'm asking a question,</p> <p>10 and that's my job. But I know the answer to the</p> <p>11 question. I've spoken to Scott in years past. I know</p> <p>12 where his prospective comes from. I've spoken to Joey</p> <p>13 specifically about this issue. I know where his head</p> <p>14 is. They want that monument to stay there and they</p> <p>15 don't want any criticism about it. And when all this</p> <p>16 happened, they were in a bunker. There were hundreds</p> <p>17 of people, hundreds of emails, a well-organized -- not</p> <p>18 like in 2017 or 2019 -- a well-organized group of</p> <p>19 local citizens peacefully making their voice heard.</p> <p>20 And it was: It will go away and we're going to help</p> <p>21 it go away by not letting them speak about it.</p> <p>22 That's the reality, Jack. And I just think</p> <p>23 you can see that not just in actions of the Board of</p> <p>24 Supervisors, you can see it in the actions of the</p> <p>25 Oxford aldermen. And I know that that's not the</p>	<p style="text-align: right;">Page 135</p> <p>1 Kevin Frye</p> <p>2 purpose of this suit. But you can see specifically</p> <p>3 that they made an effort to reserve the space</p> <p>4 throughout the fall so that protests couldn't happen.</p> <p>5 Because when protests happen on the square, the store</p> <p>6 owners all call the politicians and complain. When</p> <p>7 Matt Reardon was holding a gun in front of the statue</p> <p>8 all by himself, it was a political ruckus to how we're</p> <p>9 going to get rid of them off the square.</p> <p>10 Q. So who is Scott Mills?</p> <p>11 A. He's the chief deputy at the Sheriff's</p> <p>12 Department currently.</p> <p>13 Q. And you mentioned discussions with Scott</p> <p>14 Mills. Can you tell me about those?</p> <p>15 A. Not about -- I haven't talked to him in</p> <p>16 2020. But I know Scott. I've dealt with him over the</p> <p>17 years. And I know that his interest is status quo.</p> <p>18 Q. And do you recall generally what he said to</p> <p>19 lead you to that impression?</p> <p>20 A. No, not specific words but just in general</p> <p>21 my conversations.</p> <p>22 Q. How often have you had the chance to speak</p> <p>23 with him?</p> <p>24 A. I haven't spoken to him really in a couple</p> <p>25 of years. He retired and was not involved in the</p>
<p style="text-align: right;">Page 136</p> <p>1 Kevin Frye</p> <p>2 Sheriff's Department for the majority of my term as</p> <p>3 supervisor. But prior to that -- I've practiced law</p> <p>4 with the Sheriff's Department throughout his time as</p> <p>5 chief deputy before he retired. So I've dealt with</p> <p>6 Scott a lot over the years.</p> <p>7 Q. When you said the Sheriff, do you mean</p> <p>8 current Sheriff East?</p> <p>9 A. I do, yes.</p> <p>10 Q. And why do you believe that -- and correct</p> <p>11 me if I'm putting words in your mouth -- that his</p> <p>12 intent is to maintain status quo?</p> <p>13 A. He's told me that. I mean Joey -- I sat</p> <p>14 around that thing when I was little. It's never hurt</p> <p>15 anybody. We used to drink beer around that when I was</p> <p>16 in high school.</p> <p>17 Those are conversations I've had with Joey.</p> <p>18 He thinks that everything is fine just like it is.</p> <p>19 Q. Now, a moment ago you stated something to</p> <p>20 the effect of essentially parking that space during</p> <p>21 game weekends, and I'm paraphrasing. But would you</p> <p>22 tell me about that?</p> <p>23 A. Say that again.</p> <p>24 Q. If I remember correctly -- and I've run</p> <p>25 afoul of the no-dog rule. He's been remarkably</p>	<p style="text-align: right;">Page 137</p> <p>1 Kevin Frye</p> <p>2 patient, but he's not right now.</p> <p>3 But a moment ago, if I recall correctly, you</p> <p>4 stated something to the effect of the square being</p> <p>5 reserved during game weekends to prevent protests and</p> <p>6 things like that.</p> <p>7 A. Oh, yeah, yeah, yeah. The history has a</p> <p>8 long -- the City of Oxford has a history, not just</p> <p>9 this year, of intentionally reserving space that could</p> <p>10 be used for a protest ahead of time so that when</p> <p>11 someone would ask for a permit, they could say: The</p> <p>12 space has already been reserved. The City never in</p> <p>13 the history -- I mean they've never reserved the space</p> <p>14 on the square for every football game, and they did so</p> <p>15 this year in anticipation of protests. And when a lot</p> <p>16 of these things died down, have they used the space as</p> <p>17 they said they would on the weekends that they said</p> <p>18 they would? I think my knowledge is the answer is no.</p> <p>19 Maybe some of it but not all of it.</p> <p>20 And so -- and I know that there's been a</p> <p>21 history of doing that in years past as well.</p> <p>22 So the idea is more let's tamp down -- I</p> <p>23 want to be clear here. When people are coming to</p> <p>24 town and are going to bring guns and light torches, I</p> <p>25 tend to agree with the idea that we don't want that</p>

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2 happening on our square, regardless of any other

3 considerations. I see that perspective. But to

4 equate that to what we saw on the square in 2020,

5 which was peaceful protestors with signs, they're two

6 very different things, two very different things.

7 From the perspective of free speech, I suppose, maybe

8 not. But from the perspective of potential danger, a

9 significant difference between those two.

10 Anyway, that's my opinion.

11 Q. How do you know that the City reserved the

12 space on the square, so to speak, during home games?

13 What's the basis for that knowledge?

14 A. Visit Oxford appeared before the aldermen --

15 this was on their agenda, I think, in July or

16 August -- and submitted what was at that time the

17 football schedule for the fall. Obviously that's

18 changed a bunch of times due to COVID-19. But they

19 submitted throughout the fall on all of the busy games

20 and all of the busy weekends, including Black Friday,

21 as I recall -- I mean I'd have to go find it. I

22 remember specifically looking at -- I get the City

23 agenda emailed to me. And when you get the City

24 agenda emailed to you -- earlier remember when you

25 asked about the documents underlying the agenda for

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2 minute to try to refresh my own memory.

3 Kevin, was it your experience that between

4 the FBI and the Oxford Police Department and the

5 Sheriff's Department that law enforcement had good

6 intelligence as to when the possibility of violence

7 would arise in conjunction with a planned event on the

8 square?

9 A. Absolutely they monitored all of the social

10 media traffic and were well prepared, you know, to the

11 extent of posting snipers in hidden locations. Yeah,

12 they were ready.

13 Q. When you say "they," who is "they"?

14 A. Local law enforcement in cooperation among

15 the agencies. They were ready when it was necessary.

16 And the rest of the time I think it wasn't necessary,

17 you know.

18 Q. Do you have any doubt in local law

19 enforcement's ability to accurately distinguish

20 between potentially violent events and peaceful events

21 in which dissent would be expressed?

22 A. No, I don't have any doubt that they can

23 distinguish between the two. I do have doubt that

24 they will distinguish between the two. And by that I

25 mean when they see people voicing an opinion different

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2 supervisors, those are not included. But if you get

3 the City's email, you can click on the agenda item and

4 see the supporting documentation -- which I wish the

5 County would do that. I've pushed for it for years.

6 But anyway, it was clear when you looked at

7 the dates on the supporting documentation that every

8 big weekend was reserved. Why? Well, because our

9 community is based on tourism and is based on

10 providing people with a welcoming, accommodating,

11 pretty downtown. And if you show up and there are

12 protestors all over the place, it's a little bit -- it

13 kind of is a dystopian view of what the square is in

14 people's minds. And at the time I don't think anybody

15 anticipated COVID would shut down the whole fall

16 semester. But they did anticipate we don't want these

17 protestors being here on busy weekends. And there's

18 100 percent no doubt about it.

19 Will any of these people testify to these

20 things or will they just say: Oh, no, we were trying

21 to have some music on the square or we were just

22 trying to be safe? I know what they'll testify to.

23 But behind the scenes I also know what the intent was.

24 Q. I had one other question and it escaped me.

25 I should have written it down. Let me have just a

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1 Kevin Frye

2 than theirs, they internalize it as an attack on their

3 beliefs -- which is really not what this is about, in

4 my mind. I think it's a discussion that ought to be

5 had about our whole community's understanding of its

6 history. And that includes people in law enforcement

7 ought to be able to think about that, too.

8 MR. WILLIAMS: I know I said I was going to

9 break only once. Just one last break with Josh, and I

10 think I have used as much of your time and patience as

11 I get to. But y'all give me one quick break.

12 MR. O'DONNELL: Okay.

13 THE VIDEOGRAPHER: We're going off record.

14 The time is 1:09.

15 (A RECESS WAS TAKEN.)

16 THE VIDEOGRAPHER: We're back on record.

17 The time is 1:10.

18 MR. WILLIAMS: I have nothing else to ask of

19 Kevin. And thank you for letting me eat up half of

20 your workday.

21 THE WITNESS: I didn't have a choice. I was

22 under subpoena.

23 MR. WILLIAMS: Well, thank you for being

24 patient.

25 I know we had talked about attaching the

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2 subpoena and the responsive documents, and they

3 would certainly work as Exhibit L. Do we want to

4 do that?

5 MR. O'DONNELL: Yeah. I just wanted to ask

6 Kevin to verify that just for the record, Jack. And

7 the court reporter and everybody has a copy of the

8 subpoena with the attached exhibits. They are labeled

9 Frye subpoena documents 1 through 61. And I just want

10 Kevin to verify that he's reviewed that Exhibit L,

11 we're calling it and that it is complete and it does

12 constitute his production and response to the

13 subpoena.

14 THE WITNESS: It does. During the last

15 break I flipped through the copy of the documents

16 David brought that were Bates stamped alongside the

17 copy that I produced which I still have on my desk.

18 It's identical. So all of the Bates stamped ones are

19 even in the same order I produced them. So I have

20 that confidence.

21 (EXHIBIT L, SUBPOENA AND RESPONSIVE

22 DOCUMENTS - FRYE 001-061, WAS MARKED FOR

23 IDENTIFICATION.)

24 MR. O'DONNELL: That's all I have.

25 MR. WILLIAMS: That's all I have.

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1 Kevin Frye

2 NAME OF CASE:

3 DATE OF DEPOSITION:

4 NAME OF WITNESS:

5 Reason Codes:

6 1. To clarify the record.

7 2. To conform to the facts.

8 3. To correct transcription errors.

9 Page _____ Line _____ Reason _____

10 From _____ to _____

11 Page _____ Line _____ Reason _____

12 From _____ to _____

13 Page _____ Line _____ Reason _____

14 From _____ to _____

15 Page _____ Line _____ Reason _____

16 From _____ to _____

17 Page _____ Line _____ Reason _____

18 From _____ to _____

19 Page _____ Line _____ Reason _____

20 From _____ to _____

21 Page _____ Line _____ Reason _____

22 From _____ to _____

23 Page _____ Line _____ Reason _____

24 From _____ to _____

25 _____

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1 Kevin Frye

2 THE WITNESS: Good seeing you guys.

3 THE VIDEOGRAPHER: We are going off record.

4 The time 1:12.

5 COURT REPORTER: One moment, please.

6 MR. WILLIAMS: I was going to say is there

7 anything you need us to spell?

8 COURT REPORTER: I need to ask Mr. O'Donnell

9 if he would like a copy of the deposition.

10 MR. O'DONNELL: Yes.

11 COURT REPORTER: And would you like the

12 witness to read and sign?

13 THE WITNESS: Sure.

14 MR. O'DONNELL: Yes, he'll read and sign.

15 COURT REPORTER: Okay. Thank you.

16 (A DISCUSSION WAS HELD OFF THE RECORD.)

17 (THE DEPOSITION OF KEVIN FRYE WAS CONCLUDED

18 AT 1:12 P.M.)

19 _____

20 KEVIN FRYE

21 Subscribed and sworn to before me

22 this _____ day of _____ 2020.

23 _____

24 _____

25 Notary Public

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1 Kevin Frye

2 C E R T I F I C A T E

3 I do hereby certify that the foregoing

4 proceedings were taken down by me and transcribed

5 using computer-aided transcription and that the

6 foregoing is a true and correct transcript of said

7 proceedings.

8

9 I further certify that I am neither of

10 counsel nor of kin to any of the parties, nor am I in

11 anyway interested in the result of said cause.

12

13 I further certify that I have earned the

14 certifications awarded by the National Court Reporters

15 Association of RPR,RMR,RDR,CRR,CRC,RSA and am duly

16 licensed by the Alabama, Illinois, Louisiana, and

17 Mississippi Boards of Court Reporting as a Certified

18 Court Reporter.

19 *Debra Isbell*

20 DEBRA AMOS ISBELL, CCR,RDR,CRR

21 ALABAMA - ACCR #21 (expires 9/30/21)

22 ILLINOIS - CSR #084.004798 (expires 5/31/21)

23 LOUISIANA - CCR #2014003 (expires 12/31/21)

24 MISSISSIPPI - CSR #1809 (expires 4/10/20)

25 NCRA (expires 12/31/2021)

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